

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 2815/2013

P D Chanchalani S/o Shri Dharm Das aged about 66 years, R/o 4/12, S.F.S./Agrawal Farm, Mansarovar (Raj.) retired from the post of AEN (C) NWR, Jaipur.

-----Petitioner

Versus

1. The Central Administrative Tribunal, Jaipur Bench, Jaipur through its registrar, Sahakar Marg, Jaipur.
2. Union of India through General Manager, North Western Railway, Head Quarter Office, Near Jawahar Circle, Malviya Nagar, Jaipur.
3. Secretary, Ministry of Railways, Railway Board, Rail Bhawan, New Delhi.
4. Chief Administrative Officer (Construction), North Western Railway, Head Quarter Office, Near Jawahar Circle, Malviya Nagar, Jaipur.

-----Respondent

For Petitioner(s)	:	Mr. O.P. Mishra
For Respondent(s)	:	Mr. Rajendra Prasad Sharma

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE RAVI CHIRANIA

Order

1.	Date of conclusion of Arguments	04.02.2026
2.	Date on which the judgment was reserved	04.02.2026
3.	Whether the full judgment or only operative part is pronounced	Full
4.	Date of pronouncement	18.02.2026

Per, Ravi Chirania, J:-

1. The petitioner has approached this Court by way of filing the instant writ petition under Article 226 of the Constitution of India to challenge the impugned order dated 19.10.2011 passed by the learned Central Administrative Tribunal (hereinafter referred to as

'learned Tribunal' for short), in Original Application No. 153/2007 (herein after referred as '**O.A.**' for short), whereby the O.A. filed by the petitioner challenging the punishment order dated 30.01.2006 passed by the Disciplinary Authority and the order dated 31.01.2007 passed by the Appellate Authority was not disturbed, rather confirmed and the O.A. was dismissed.

2. Brief facts of the case, as submitted by learned counsel for the petitioner Mr. O.P. Mishra, are that the petitioner was appointed in the year 1971 as a Permanent Way Inspector in the respondent-railway and from 1971 till the age of superannuation on 31.01.2006, no disciplinary proceedings, show cause notices, etc., were ever issued to him, except the one impugned in the present case. Learned counsel further submitted that the petitioner was issued an impugned charge sheet dated 19.01.2004 in respect of the vigilance inspection conducted regarding certain material, more specifically 'ballast stack' as received for the repair of the railway track and on account of the fact that serious differences were found in the measurement and the quality of Ballast stack, therefore, the impugned charge sheet was issued to him and one D.C. Yadav.

3. Learned counsel submitted that the petitioner submitted his detailed response to the charge sheet and the Enquiry Officer found the charges to be partially proved and submitted his report, however, the Disciplinary Authority did not agree with the findings and recorded a Disagreement Note, to which the petitioner submitted his reply as well. Thereafter, the Disciplinary Authority, after providing sufficient opportunity of hearing, punished the petitioner and D.C. Yadav in the disciplinary proceedings.

4. Learned counsel submitted that the petitioner was **punished with a reduction to a lower stage by ten (10) stages till retirement, whereas D.C. Yadav, who was issued the same charge sheet, with same charges was punished with the penalty of compulsory retirement.** The punishment order dated 30.01.2006 was challenged by way of an appeal before the Appellate Authority, however, the Appellate Authority did not interfere with the punishment order and accordingly dismissed the appeal. Against the above orders the petitioner preferred O.A. bearing No.153/2007 before the learned Tribunal. Before the learned tribunal, it was contended that the punishment was disproportionate to the charges in the facts and circumstances of the case. The petitioner majorly questioned the disciplinary proceedings and the punishment as awarded to him on the ground that the punishment was shockingly disproportionate. It was further contended that person D.C. Yadav, who was punished with compulsory retirement, hardly faced any punishment, where as petitioner suffered the severest punishment in comparison to him.

5. Learned counsel submitted that though it appears that the petitioner was awarded a lesser punishment, in fact being compulsorily retired, D.C. Yadav did not suffer any punishment. Looking to the fact that his retirement didn't cause any punishment to him because the retirement took place just 11 months after the punishment order, and therefore, even after being compulsory retirement, he did not suffer any financial loss or any other loss in comparison to the petitioner. He, therefore, prayed before the learned Tribunal, that as the charges against the petitioner and D.C. Yadav were same, he may also be awarded

the same punishment, otherwise, the punishment awarded to the petitioner is disproportionate, unequal and rather severest in the case of the petitioner as compared to D.C. Yadav.

6. Learned counsel submitted that the petitioner retired from the services after attaining his age of superannuation on 31.01.2006, and presently, on account of punishment of reduction to a lower stage by ten (10) stages till retirement, he is receiving low pension as was calculated on the basis of last pay and therefore, prays in the instant petition that the order dated 19.10.2011 passed by the learned Tribunal be modified and the punishment as awarded by the Disciplinary Authority of stoppage of 10 grade increments with cumulative effects till retirement be modified to compulsory retirement at par with the D.C. Yadav.

7. Per contra, learned counsel for the respondent-Railway, Mr. Rajendra Prasad Sharma, strongly opposed the submissions made by learned counsel for the petitioner and contended that the conduct of the petitioner was found to be serious, and therefore, he was rightly punished by the Disciplinary Authority with reduction to a lower stage by ten (10) stages with cumulative effect till retirement. He further submitted that the petitioner cannot ask for parity of punishment, even though it may appear to be higher in this case.

8. Learned counsel submitted that it is just a situation where D.C. Yadav may have not suffered any financial loss even after the compulsory retirement on 22.12.2006 unlike the petitioner. However, that cannot be a ground to substitute or to modify the punishment in any given facts and circumstances. In view of the above, learned counsel prayed that as the petitioner remained

unsuccessful before the Disciplinary Authority, which passed the punishment order dated 30.01.2006, the Appellate Authority dismissed the appeal by order dated 31.01.2007 and thereafter the learned Tribunal also dismissed the OA., in given facts and circumstances, therefore there are no reasons and grounds for interference with the punishment order as passed in the case of the petitioner. In the last, learned counsel prayed that the present writ petition, being devoid of merits deserves to be dismissed.

9. This Court, after hearing learned counsel for the respective parties, noted that the petitioner was appointed as a Permanent Way Inspector in the respondent-Railway in the year 1971, had completed service with a clean service record from 1971 till the date of retirement. However, on account of inspections as conducted in respect of certain maintenance work which were entrusted to the petitioner relating to the railway track between JP-SWM and JP-Bassi Station in Jaipur Division, he was issued a charge sheet along with D.C. Yadav for the inferior quality and sub-standard ballast used in the relevant track. The petitioner was served with the charge sheet dated 19.01.2004, in which the following charges were leveled against him:-

"Article of Charge No.1:-

Shri P.D. Chanchlani, the then AEN (Track) JP while working in the year 2001 as AEN (Track) JP has accepted the ballast supply (vide W.O No.W/6/6, dated 26-9-2001) after conducting 100% test check on both quantity and quality in which major variation in sieve analysis results and minor variations in quantities were detected. He also accepted inferior stone ballast with respect to the impact value which ought to have been rejected.

Article of Charge No. 2:

Shri P.D.Chanchlani, the then AEN (Track) JP has tried to mislead the vigilance department by entering 'fictitious' endorsements, apparently on the back date, in the M.B page No.465009 and corresponding contractor bill. Shri P.D.Chanchlani also did not assist for the handing over of the M.B to the vigilance team within the reasonable time.

By the above acts, Shri P.D.Chanchlani, the then AEN (Track) JP has committed grave misconduct in as much as that he failed to maintain absolute integrity and devotion to duty. He acted in a manner unbecoming of a railway servant. He thus violated para 3(1) (i), (ii) & (iii) of Railway Service conduct Rules, 1966."

10. As the case of the petitioner is that the punishment awarded to him is disproportionate and the charges as leveled against other employee D.C. Yadav were almost same, as they were in respect of the same inspection. The Enquiry Officer found the charges to be partially proved and submitted its report. However, the Disciplinary Authority did not agree and submitted Disagreement Note dated 28.01.2006 to which the petitioner submitted his detailed reply, as stated by learned counsel for the petitioner. The Disciplinary Authority, after providing sufficient opportunity of hearing and following the complete procedure, imposed the punishment of reduction to a lower stage by ten (10) stages with cumulative effect till retirement. The punishment as imposed by order dated 30.01.2006, being relevant, is reproduced as under:-

"I hereby acknowledge receipt of N.I.P. Notice No.E-174/1/DAR/Engg/19 dated 01.2006 conveying the

order of imposition of penalty of "Reduction to lower stage by ten stages at Rs.9375/- in existing pay scale of Rs.8000-275-13500, with cumulative effect, till retirement."

11. The petitioner challenged the order dated 30.01.2006 before the Appellate Authority, however, the Appellate Authority did not interfere with the said order and by quoting the certain paras, simply recorded that in view of the speaking order of the Railway Board, the appeal preferred by the petitioner is rejected. This Court finds that the Appellate Authority fails to apply its mind while deciding the appeal of the petitioner by order dated 31.01.2007.

12. The order of the punishment dated 30.01.2006 and the order of the Appellate Authority dated 31.01.2007 were put to challenge by way of filing OA before the learned Tribunal, where the petitioner did not question the findings as recorded by the Enquiry Officer and the Disciplinary Authority. However, his grievance was only in respect to the punishment being disproportionate and severest in the facts and circumstances of the case in comparison to D.C. Yadav. In order to examine the question as to why the petitioner had alleged that the punishment is disproportionate, this Court reviewed the relevant records which are part on file. The details, being relevant of the petitioner P.D. Chanchlani and D.C. Yadav, are as under:-

Name	DOB	Post	Pay Scale/ Grade pay	Joining date	Date of Retirement	Impact of Punishment	Last Drawn Pension
P.D. Chanchalani	01.02.1946	Asst. Engineer	9375/ (8000-13500)	18.01.1971	31.01.2006	Stoppage of ten grade increment with cumulative	9357

					effect	
D.C. Yadav	28.02.1947	SSE	11275/ (7450- 11500)	16.09.1972	22.12.2006	Compulsory retirement 12960

13. This Court noted that the sole issue to be examined, as specifically argued by the learned counsel for the petitioner, is whether the punishment is disproportionate and severest in comparison to D.C. Yadav, and therefore, noted that the Disciplinary Authority passed the punishment order dated 30.01.2006 and D.C. Yadav was punished compulsory retirement and retired on 22.12.2006. As D.C. Yadav was compulsorily retired due to the punishment order, he did not face any financial implication and his pension was calculated on the basis of the last drawn salary, which he was drawing in the pay scale of Rs.7450-11500/- (Grade Pay 11275/-). This Court further noted that the petitioner, P.D. Chanchlani, was punished with a reduction to lower stage by ten stages at Rs. 9375/- in the existing pay scale of Rs.8000-13500/- with cumulative effect till his retirement, therefore his pension was calculated accordingly and he was granted the pension of Rs.9087/-.

14. Learned counsel submitted that, for the same charges, two persons were punished by the Disciplinary Authority by which one was punished with punishment of compulsory retirement and another with reduction as mentioned above. It is apparent on the face of the record that the petitioner was awarded a disproportionate and severest punishment and further D.C. Yadav, who was appointed in the year 1971 and retired in December 2006 actually did not face any punishment, as he served for about 35 years for the respondent, whereas the petitioner was appointed in the year 1971 and was punished by punishment

order dated 30.01.2006 with reduction to a lower stage by Ten stages at Rs.9375/- and his pension was accordingly calculated. This Court noted that petitioner had to retire next day after the punishment order. When the charges were same and conduct of the petitioner, being the Senior officer to D.C. Yadav was severe according to the respondent and the year of retirement was also same being 2006 as both were appointed in the year 1971 and 1972, therefore, the reason and justification as recorded by the Disciplinary Authority was not rightly and reasonably considered, discussed and examined by the Appellate Authority as well as by the learned tribunal while dismissing the Departmental Appeal by order dated 31.01.2007 and the OA by order dated 19.10.2011, which does not appears to this Court to be fair, reasonable, legal and logical in the facts and circumstances of the case.

15. We have examined the submissions and limited prayer of learned counsel for the petitioner that the punishment be modified and converted to compulsory retirement so as to make him at par with the D.C. Yadav who also retired in the same year i.e. year 2006. For examining this issue, the law as settled in this regard needs to be discussed.

16. Learned counsel for the petitioner cited the judgment passed by the Hon'ble Supreme Court in the case of **Naresh Chandra Bhardwaj Vs. Bank of India**¹, where the Hon'ble Supreme Court discussed the reason of interference in the said case on the ground of disproportionate punishment. The Hon'ble Supreme Court in para 5 and 6 of the judgment discussed the parameters and the circumstances where Court can make any

¹ (2019) 50 SCC 786

interference while exercising the power of judicial review. The relevant para Nos. 5 and 6 of the judgment are quoted as under:-

"5. It is trite to say that the domain of the courts on the issue of quantum of punishment is very limited. It is the disciplinary authority or the appellate authority, which decides the nature of punishment keeping in mind the seriousness of the misconduct committed. This would not imply that if the punishment is so disproportionate that it shocks the conscience of the court the courts are denuded of the authority to interfere with the same. Normally even in such cases it may be appropriate to remit the matter back for consideration by the disciplinary/appellate authority. However, one other cause for interference can be where the plea raised is of parity in punishment but then the pre-requisite would be that the parity has to be in the nature of charges made and held against the delinquent employee and the conduct of the employee post the incident. It is the latter aspect which is sought to be advanced by learned counsel for the appellant by relying upon the judgment in *Rajendra Yadav v. State of Madhya Pradesh* On this very aspect learned counsel for the respondents drew out attention to a subsequent judgment in *Lucknow Kshetriya Gramin Bank (Now Allahabad, Uttar Pradesh Gramin Bank) v. Rajendra Singh* which had taken note of the earlier judgment referred to aforesaid.

6. There is really no difference in the proposition, which is sought to be propounded except that in the latter judgment the principles have been succinctly summarised in the last paragraph of the judgment, which read as under:

"19. The principles discussed above can be summed up and summarized 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 (d) above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct was 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 concerned employee 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 co-delinquent accepts the charges, indicating remorse with unqualified apology lesser punishment to him would be justifiable.”

(emphasis supplied)

17. The Hon'ble Supreme Court in the above case specifically recorded a finding that the parity in punishment can be claimed, when the charges being same, and further the punishment as awarded is disproportionate and shocking to the conscience of the Court. The Hon'ble Supreme Court in the above case further examined the issue as financial ramification of the punishment. Therefore, it is relevant to quote the relevant para Nos.12, 13, 14, and 15, which reads as under:-

"12. A reading of the aforesaid shows that while earlier the proposal was for removal from service for all the three officers, in respect of other two officers it was converted into compulsory retirement while not doing so in the case of the appellant. The rationale is stated to be the seriousness of the acts of misconduct of the appellant and the fact that he was the recommending authority in two cases and the sanctioning authority in three other cases. However, the real reason comes out from the earlier part of the paragraph, which is that while the other two officers were provident fund optees, the appellant was a pension optee. It is, however, not explained in any of the pleadings before us as to what is the financial ramification in respect of the two options and as to whether the appellant would get a greater financial benefit by reason of being a pension optee.

13. It is difficult for us to accept that there is any difference in the conduct of the three officers as would justify this differentiation in punishment. The most important fact in this behalf to notice is that as per the counter affidavit submitted by the respondents, in their own wisdom they have agreed to grant compassionate allowance to the appellant, which is 2/3rd of the full pension as would be payable to him had the punishment of removal from service not been imposed on him. What is also important to note is that it is further submitted in the same paragraph 8.2 that even if the punishment is modified to compulsory retirement the appellant would receive 2/3rd of the full pension which is equivalent to the 2/3rd of the full pension as received for compassionate allowance. The appellant has been given the maximum benefit under Regulations 31 & 33 of the Pension Regulations 1995 dealing with compassionate allowance.

"8.2.It is further submitted that even in case a punishment of "Removal from service" is imposed upon the Petitioner is modified to that of "Compulsory Retirement", he would receive 2/3rd of the Full Pension, which is equivalent to the 2/3rd of Full Pension which he is receiving at present as a "Compassionate Allowance."

14. We fail to appreciate that once there is no financial difference and the role is practically identical, why the respondents hesitated themselves to convert the punishment inflicted on the appellant from one of

"removal from service which shall not be disqualification for future employment" to "compulsory retirement." The only aspect is the nature of punishment which appears to the appellant more than the other two officers without any financial implication for the respondent-Bank.

15. In the aforesaid facts & circumstances, we are, thus, inclined to accept the plea of the appellant to convert his punishment in terms aforesaid to one of "compulsory retirement."

18. This Court following the principles, as laid down by the Hon'ble Supreme Court in the case of ***Naresh Chandra Bhardwaj (supra)***, noted that in respect of certain inspections of 2001, both the petitioner and the D.C. Yadav were issued the charge sheet on the same allegations, however, the Disciplinary Authority awarded different punishments to the petitioner than to D.C. Yadav, who was punished with the punishment of compulsory retirement. As D.C. Yadav did not face any consequence on account of compulsory retirement and did not facing any financial ramifications of the punishment order, therefore, he accepted the punishment and did not challenge the same. On the other hand, the petitioner who was also appointed in the year 1971 and retired just a day after the punishment order dated 30.01.2006, on 31.1.2006, was punished with the stoppage of ten lower grade increments with cumulative effect till retirement, which clearly shows that for the same charges, two different punishments were awarded and there is no justification or explanation on record as to why D.C. Yadav did not suffer any financial loss, etc. for the alleged misconduct and punished on compulsory retirement, which he accepted and did not challenge and the petitioner was punished with the severest punishment.

19. There is no dispute about the law as settled by the Hon'ble Supreme Court regarding the power of judicial review in the matters of disciplinary proceedings and the punishment which is awarded, however, when the punishment appears to be disproportionate, severest, unreasonable, on case-to-case basis, the Constitutional Courts cannot be denuded to exercise their power of judicial review.

20. This Court considered the following judgments as cited by learned counsel for the respondent-railway:-

1. **Union of India Vs. P. Gunasekaran**².
2. **Charanjit Lamba Vs. Commanding Officer, Army Southern Command and Ors.**³
3. **General Manager, Punjab and Sind Bank and others Vs. Daya Singh**⁴
4. **Union of India and others Vs. P. Chandra Mouli and Ors.**⁵
5. **Prem Nath Bali Vs. Registrar, High Court of Delhi and Anr.**⁶
6. **Balbir Chand Vs. Food Corporation of India**⁷.

21. In view of the law as laid down in judgment, scope of judicial review is available to the Constitutional Courts, when the punishment awarded is disproportionate, severest and shocks the conscience of the Court.

22. This Court has also considered the recent judgment passed in the case of ***Naresh Chandra Bhardwaj (supra)***, where the

2 (2015) 2 SCC 610

3 (2010) 11 SCC 314

4 (2010) 11 SCC 233

5 (2003) 10 SCC 196

6 (2015) 16 SCC 415

7 (1997) 3 SCC 371

Hon'ble Supreme Court specifically examined the issue of disproportionate punishment imposed for the same charge and in order to have parity in punishment, the Court even examined the financial ramifications of punishment.

23. In usual circumstances, following the law as cited by the learned counsel for the respondents as settled by the Hon'ble Supreme Court, the Court would desist from making any interference in the punishment order while exercising the power of judicial review because it is the disciplinary authority and appellate authority which is competent to decide the punishment in the given facts and circumstances and the Court cannot assume function of the disciplinary/departmental authority or to decide the quantum of punishment and also the nature of penalty which can be awarded. However, While doing judicial review, power is available to the Constitutional Courts, to make interference in the punishment imposed by the Disciplinary Authority only where the punishment is shockingly disproportionate and which shocks the conscience of the Court.

24. The facts of the present case, as noted above, admittedly as cannot be disputed by learned counsel for the respondent-railway, clearly shows that though the Disciplinary Authority punished, both the employees i.e. P.D. Chanchlani and D.C. Yadav, for the same charges, however, in the given facts and circumstances, as noted, both the persons were appointed in the year 1971 and 1972 retired in the year 2006, however, one was awarded with the punishment of compulsory retirement i.e. D.C. Yadav who without any question or challenge accepted the punishment order, as he did not face any financial ramifications on account of the

punishment. However, the petitioner P.D. Chanchlani, who was appointed in the year 1972 and retired on attaining the age of superannuation on 31.01.2006, but he was punished with the reduction to a lower stage by ten stages with cumulative effect till retirement caused serious financial ramification to him as reduction was made applicable till the date of his retirement which reduced his pension subsequently. The two employees though holding different posts, one did not suffer any punishment actually including any financial loss in the pension etc., whereas the other suffered serious financial implications as his pay was reduced by 10 grades into the pay he was drawing till retirement and on the basis of his last drawn pay, his pension was accordingly calculated and this remained for life and has declared the punishment as apparently disproportionate, severest and shocking punishment to the petitioner in the facts and circumstances of the present case.

25. Though the issue of modification of punishment to the compulsory retirement was raised before the Appellate Authority as well as before the learned Tribunal, however, both did not interfere. This court considering the law laid down by the Hon'ble Supreme Court in the case of *Naresh Chandra Bhardwaj* (supra) finds that the punishment is disproportionate, severest and shocking for the Court in the facts and circumstances of the case. For the above reasons, the sole prayer of the petitioner does not appears to be unreasonable, unjustified when the disciplinary authority was aware that the petitioner was retiring just a day after the order, therefore, we find the order of the Disciplinary Authority of passing the punishment order dated 30.01.2006 of stoppage of ten grade increment with cumulative effect and

affirmation of the order passed by the Appellate Authority and non interference by the learned Tribunal is not legally fair and justified rather contrary to above discussed settled law of Supreme Court.

26. Therefore, the impugned order dated 30.01.2006, order of the Appellate Authority dated 31.01.2007 and order of the learned Tribunal dated 19.10.2011 are quashed and set aside to the extent of punishment as awarded and the writ petition filed by the petitioner is partly allowed and the punishment of reduction to a lower stage by ten stages with cumulative effect is modified to compulsory retirement as awarded to D.C. Yadav, for the reasons as discussed above.

27. With the above discussion and the reasons as recorded, the present writ petition is partly allowed.

28. No order as to costs.

(RAVI CHIRANIA),J
Monika/92

(INDERJEET SINGH),J