

20-05-2026
Item No.2
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.6657 of 2026
Shri Chandra Prakash Prajapat
-vs-
Union of India & Ors.

Mr. Achin Kumar Majumder
Ms. Ananya Adhikary ...for the petitioner

Mr. Anuran Samanta
Mr. Iswar Chandra Maiti ...for Union of India

1. The petitioner is serving as a constable in the Railway Protection Force. He has been issued a memorandum annexing copy of the charge-sheet mentioning the allegations levelled against him.
2. Primary grievance of the petitioner is that the memorandum has been issued by the Assistant Security Commissioner claiming to be the disciplinary authority.
3. According to the petitioner, pursuant to the provisions of the Railway Protection Force Rules, 1987, the Assistant Security Commissioner is not the disciplinary authority of the petitioner. Jurisdiction of the officer initiating the disciplinary proceeding has been challenged.
4. The petitioner is further aggrieved as the enquiry officer has been mentioned in the memorandum issued to him. According to the petitioner, an opportunity ought to have been given to him to file his defence; and on consideration of the defence, the authority should have taken a

decision as to whether to proceed against him or not. Without applying his mind on consideration of defence to be filed by the petitioner, an enquiry officer could not have been engaged on the very first day.

5. In support of such submission, learned counsel for the petitioner relies upon an order dated **December 17, 2008** passed by the Hon'ble Division Bench of this Court in **MAT No.530 of 2008 (Union of India & Ors. v. Smt. Champa Das & Anr.)** wherein the Court held that immediately directing the enquiry officer to hold inquiry against the employee without seeking any explanation from the employee is impermissible in law.
6. The petitioner, in support of the same submission, also relies on a judgment delivered by the Hon'ble Supreme Court in the case of **State of Punjab v. V.K. Khanna & Ors.** reported in **(2001) 2 SCC 330**, paragraph 34 thereof.
7. Prayer has been made to set aside the entire disciplinary proceeding as the very initiation of it is biased and with a preconceived mind.
8. Learned counsel for the respondents submits that as per the provision of law, the authority can initiate disciplinary proceeding without seeking for any explanation from the employee.
9. In support of such submission, reliance has been placed on the judgment passed by the Hon'ble Division Bench of this Court on **June 20, 2014** in **FMA No.129 of 2010** wherein the Court was of the opinion that appointment of enquiry officer while issuing charge-sheet and before filing of reply by the delinquent does not reflect bias.

10. Reliance has also been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of **South Bengal State Transport Corporation v. Ashok Kumar Ghosh & Ors.** reported in **(2010) 11 SCC 71**.
11. Upon hearing the respective submissions made by the parties and on perusal of the materials on record, it appears that memorandum has been issued by the Assistant Security Commissioner. Whether the said officer is empowered to initiate disciplinary proceeding in respect of a constable is to be adjudicated.
12. The respondents are, therefore, directed to file affidavit-in-opposition within six weeks from date; reply thereto, if any, by a fortnight thereafter.
13. Liberty to mention the writ petition for final hearing on completion of the aforesaid time period.
14. It is ordered that the disciplinary proceeding which has been initiated may proceed in accordance with law but final order will not be passed in the matter without obtaining the leave of the Court.
15. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.
16. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

