IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 18933 of 2021

Sumanta Rana
-Vs-
Union of India & Ors.

For the Petitioner :Mr. Sambhu Nath Ray
Mr. Asit Baran Ghsoh
Mr. Somesh Kumar Ghsoh
Ms. Munmum Das
Mr. Sumon Mukherjee

For the Respondents/U.O.I. :Mr. Debapriya Gupta

Judgment on : 05.05.2026

Ananya Bandyopadhyay, J.:-

1. The petitioner, Sumanta Rana, a Constable/GD under the Central Industrial Security Force, traced the commencement of his service career to 15th May, 2010, when he entered the Force and thereafter underwent institutional training at the CISF Training Centre situated at Arakkonam in the State of Tamil Nadu. Upon successful completion of training, he was first attached to the CISF Unit at O.T.H.P. Obra in the State of Uttar Pradesh. In due course, he was transferred to the 6th Reserve Battalion (NDRF) at Arakkonam and subsequently posted to CISF Unit, IOCL Pradip on 1st November, 2017. The petitioner projected that throughout his tenure under different establishments he discharged every assignment entrusted to him with sincerity, discipline and fidelity to official duty and

maintained the conduct expected of a member of a disciplined armed force.

2. The writ petition recites that matters took an adverse turn upon issuance of Office Memorandum dated 12th March, 2020 whereby five Articles of Charge were framed against the petitioner.
3. Under Article of Charge-I, the petitioner was accused of making false and scandalous allegations against Shri B.B. Mishra, Assistant Commandant (Administration), CISF Unit, IOCL Paradip. The accusation arose out of an online application dated 20th December, 2019 and a written representation dated 7th January, 2020 wherein the petitioner allegedly asserted that the said officer, being a native of Odisha, refrained from taking action against Odia force personnel despite allegations of their involvement in unlawful activities and instead extended patronage to them. The memorandum characterised the allegation as constituting gross misconduct, moral impropriety and breach of institutional trust.
4. Article of Charge-II alleged that on 2nd January, 2020 the petitioner behaved in an insolent and discourteous manner with ASI/Steno P.K. Meena, clandestinely recorded the conversation on his mobile phone and thereafter issued an intimidating statement to the effect that unless his application was resolved, he would demonstrate what he was capable of doing. Such conduct was treated by the authorities as gross indiscipline and insubordination unbecoming of a member of the Central Armed Police Force.
5. Article of Charge-III alleged that while the petitioner was deployed in 'B' Shift duty at Gate No. 2 of IOCL Paradip Refinery on 9th January, 2020,

he became involved in illegal collection of diaries from private contractors and supervisors associated with the refinery establishment. The conduct was alleged to have violated departmental instructions and brought disrepute to the image and integrity of the CISF.

6. Article of Charge-IV alleged that despite repeated telephonic communications and physical approaches for service of nine official letters and communications, the petitioner deliberately refused to receive the same and failed to comply with lawful directives issued by superior authorities on two separate occasions. Such refusal was alleged to constitute gross negligence towards official duty and disobedience of lawful orders in contravention of the provisions of the CISF Act, 1968.
7. Article of Charge-V referred to the petitioner's previous service antecedents and recorded that during approximately ten years of service he had already suffered one major penalty under Rule 36 and nine minor penalties under Rule 37 of the CISF Rules, 2001 for various acts of misconduct. The memorandum proceeded to describe him as a habitual offender incapable of reformation and as a person whose repeated misdemeanours rendered him unworthy of the discipline expected from a member of the Armed Force of the Union.
8. The petitioner, however, sought to unfold a different factual narrative behind the initiation of the disciplinary proceeding. According to him, while posted at Gate No. 2 (Out) of IOCL Paradip along with Head Constable P. Pradhan for protection of refinery property, certain unknown individuals committed theft of copper cable allegedly at the instance of the said Head Constable. The petitioner asserted that upon apprehending the

culprits, he was instructed by the superior-ranking Head Constable to permit them to leave without interference. The petitioner stated that although he did not protest at the spot owing to the hierarchy of command, he subsequently submitted a written report before the Assistant Commandant approximately ten days later narrating the incident in detail.

9. According to the petitioner, the departmental proceeding thereafter commenced upon fabricated and retaliatory allegations. He asserted that accusations relating to improper uniform, illegal collection of diaries and other allegations were engineered solely because he had disclosed the alleged theft incident involving his superior officer. The petitioner further maintained that the Articles of Charge were not accompanied by complete supporting documents and relevant list of witnesses, thereby depriving him of an effective opportunity to defend himself.

10. The petitioner further stated that without first obtaining his show-cause explanation in a fair and meaningful manner, the authorities appointed Inspector (Fire) A.K. Singh as the Enquiry Officer. Feeling aggrieved by such appointment, the petitioner addressed a grievance petition before the Director General requesting substitution of the Enquiry Officer. According to the petitioner, the Director General advised the DIG, North Sector to consider appointment of another Enquiry Officer, yet the grievance raised by the petitioner was not acted upon.

11. The writ petition further asserted that the disciplinary proceeding progressed in disregard of due process and culminated in the punishment of removal from service without affording the petitioner a proper

opportunity of hearing. It was alleged that the disciplinary authority, namely Commandant Nukesh Kumar, appointed an Enquiry Officer according to his own preference despite objections raised by the petitioner. The petitioner further complained that the proceeding was conducted in a predetermined fashion and that no proper show-cause notice preceding imposition of punishment was served upon him. According to him, even the final order of punishment was not duly furnished.

12. A further grievance was advanced that the enquiry proceeding was conducted ex parte and recorded in Hindi, a language which the petitioner claimed he did not adequately understand. The petitioner accordingly alleged denial of a fair opportunity to participate effectively in the proceeding.

13. The petitioner also averred that on 20th November, 2020 he submitted a representation before the Deputy Inspector General, South Eastern Zone-II, setting forth the circumstances surrounding the disciplinary action and requesting reconsideration thereof, though according to him the representation did not receive meaningful attention.

14. The petition thereafter referred to W.P.(C) No. 28753 of 2020 instituted before the High Court of Orissa at Cuttack. The matter came up before the Hon'ble Justice Dr. B.R. Sarangi on 24th November, 2020. Upon hearing the Learned Counsel appearing for the petitioner, liberty was sought to withdraw the writ petition so as to enable the petitioner to obtain relevant documents under the Right to Information Act. The writ petition was consequently disposed of as withdrawn.

15. The petitioner next referred to the appellate order dated 16th January, 2021 passed by the Deputy Inspector General functioning as the Appellate Authority. The appellate authority recorded that the petitioner had been granted adequate opportunity for cross-examination of witnesses and inspection of relied-upon documents during the course of the enquiry proceeding. It was further observed therein that no infirmity or procedural irregularity could be discerned in the decision-making process adopted by the disciplinary authority. On such reasoning, the appeal preferred by the petitioner was rejected.
16. The petitioner nevertheless asserted that prior to approach the High Court he had submitted appeal petitions dated 13th November, 2020, 18th November, 2020 and 20th November, 2020. In response thereto, Office Memorandum No.V-15015/CISF/IOCL(P)/MAJ/APPEAL/2021/480 dated 25th January, 2021 was issued by the Assistant Commandant forwarding the appellate order passed by DIG, SEZ-II, CISF Headquarters, Mundali to the petitioner's permanent residential address in the District of Bankura with instruction to return the acknowledged copy duly signed with particulars of date and name.
17. The petitioner further narrated he subsequently received a memorandum dated 22nd March, 2021 from the office of the Commandant enclosing risk-saving front final payment papers and directing him to fill up and return the forms after due signature and attestation. According to the petitioner, the said documents were neither signed nor returned by him.
18. The writ petition further disclosed on 19th February, 2021 the petitioner submitted a representation before the Inspector General, South Eastern

Sector, CISF Headquarters at Kasba, Kolkata invoking revisional jurisdiction against the disciplinary and appellate orders. The petitioner candidly admitted that the revisional application might not have been drafted in proper technical format; however, he contended such procedural deficiency ought not to have overshadowed the essence of the grievance raised by a Constable unacquainted with legal formalities and procedural intricacies.

19. By Office Memorandum No. V-11014/CISF/SES/LC/Rep./SR/2020-3264 dated 26th March, 2021, the office of the Inspector General returned the petitioner's application on the ground that it was not framed in the manner of a proper revision petition. The communication, however, indicated that if the petitioner remained dissatisfied with the order of penalty and the appellate order, he could prefer a fresh revision petition before the competent revisional authority with appropriate contents and proper format.

20. The petitioner further stated that he was residing in departmental family accommodation along with members of his family including his aged parents when suddenly Memorandum No. C-11018/CISF/IOCL/QM/FA/RETN/2021-2884 dated 9th April, 2021 was issued directing him to vacate the family accommodation within fifteen days from receipt of the communication.

21. Aggrieved thereby, the petitioner instituted WPA No.0280 of 2021 assailing the charge memorandum dated 12th March, 2020, the enquiry proceeding, the final order dated 15th October, 2020, the appellate order dated 16th January, 2021, the communication dated 26th March, 2021

returning the revision petition and the order dated 9th April, 2021 directing eviction from family accommodation.

22. In the said writ petition, the petitioner prayed for extensive interim and final reliefs. Besides seeking writs commanding withdrawal, rescission and cancellation of the disciplinary proceeding and consequential orders, the petitioner sought ad interim orders of injunction restraining the respondent authorities from giving effect to the charge memorandum dated 12th March, 2020, the enquiry proceeding, the final order dated 15th October, 2020, the appellate order dated 16th January, 2021, the revisional communication dated 26th March, 2021 and the memorandum dated 9th April, 2021 directing vacation of family accommodation. Further prayer was made for interim protection in terms of the substantive prayers and for issuance of consequential directions and incidental costs.

23. The petitioner stated that the said writ petition was taken up for hearing on 17th August, 2021 before the Hon'ble Justice Arindam Mukherjee who disposed of the matter by passing a detailed order. Pursuant to the liberty granted therein, the petitioner thereafter submitted a revisional application before the Inspector General, CISF, South Eastern Sector Headquarters, Kolkata under Section 9 of the Central Industrial Security Force Act, 1968 read with Rule 54 of the CISF Rules, 2001 challenging the final order dated 15th October, 2020 passed by the Commandant and Disciplinary Authority at Paradip removing him from service.

24. According to the petitioner, upon receipt of the revisional application the concerned authority directed him to appear personally on 10th

September, 2021 for hearing. The petitioner asserted that he accordingly appeared before the Inspector General, CISF, Kolkata and was orally heard. During such hearing, the petitioner stated that he placed before the revisional authority his humble socio-economic background, asserting that he belonged to a financially marginalised family, that his aged parents were suffering from ailments associated with old age and that the family possessed approximately one bigha of agricultural land standing in the name of his father.

25. The petitioner further narrated that by Office Memorandum No. 11014/SIS/LC/Rev-12/SR/2021-12724 dated 28th October, 2021, communicated through Registered Post/AD and received by his father on 5th November, 2021, the revisional application stood rejected with the following observation:-

> *"And whereas I have carefully gone through the departmental proceedings vis-à-vis submissions made by the petitioner in his revision petition. I find that enquiry was conducted as per the laid down procedure and there was no violation of natural justice. The charges were held proved by the Enquiry Officer on the basis of evidences adduced during the course of enquiry. During short span of service of 10 years he was awarded 10 penalties for various delinquencies by the respective Disciplinary Authorities but he did not mend himself. The petitioner has not come up with any new point which warrants interference with the earlier orders. The action taken by the Disciplinary Authority and Appellate Authority are found fair and just."*

26. The revisional authority observed therein that the departmental enquiry had been conducted in accordance with prescribed procedure and without violation of principles of natural justice; that the charges had been proved

on the basis of evidence adduced during enquiry; that during a comparatively short tenure of ten years the petitioner had already suffered ten penalties for various delinquencies; and that no new point had been raised warranting interference with the earlier orders. The revisional authority further held that the actions of the Disciplinary Authority and Appellate Authority were fair and justified.

27. The petitioner sharply criticised the aforesaid revisional order and contended that the same was arbitrary, perverse, mala fide, mechanical and bereft of proper application of mind. According to the petitioner, the order merely created an impression of consideration without actually dealing with the substance of the revisional grounds urged by him. It was asserted that the revisional authority did not advert to the specific submissions advanced in paragraphs 6 and 7 of the revisional application and that there was scarcely any reflection in the order as to what aspects were genuinely examined by the Inspector General.

28. The petitioner further contended that the charges themselves were evasive, ambiguous and deficient in clarity and therefore incapable of constituting a sustainable prima facie foundation for major penalty. He asserted that allegations relating to previous minor penalties and one major penalty could not lawfully be amalgamated so as to prejudice the petitioner in the fresh disciplinary proceeding.

29. The petitioner also alleged that the Inspector General acted with a predetermined disposition in affirming the order of removal from service and failed to appreciate the disproportionate nature of the punishment imposed for the alleged acts of insubordination. The petitioner reiterated

that the genesis of the disciplinary hostility lay in the grievances ventilated by him against Assistant Commandant S.B. Mishra, whom he accused of harbouring sectarian and provincial prejudice. According to the petitioner, the revisional authority failed to examine the background circumstances giving rise to the charges and mechanically upheld the findings returned by the disciplinary authority.

30. The petitioner further criticised the revisional authority for placing repeated emphasis upon the petitioner's previous penalties suffered during service and quoted the observation that despite ten penalties during ten years of service the petitioner did not mend his character. According to the petitioner, the reliance upon earlier punishments, which had already been undergone by him without protest, amounted to placing him repeatedly in peril for matters already concluded.

31. It was additionally urged that while exercising revisional jurisdiction the Inspector General was not functioning merely as an administrative functionary but was discharging powers bearing the attributes of a quasi-judicial authority. Therefore, according to the petitioner, the revisional authority was expected to independently evaluate the factual and legal dimensions of the matter instead of mechanically endorsing the conclusions of subordinate authorities. The petitioner alleged that the revisional authority failed to rise above bureaucratic formalism and upheld the order of removal in a stereotyped and closed-minded manner.

32. Ultimately, the petitioner asserted that the revisional order dated 28th October, 2021 was illegal, unconstitutional, discriminatory and grossly disproportionate and that the same was liable to be set aside.

Consequential relief was sought for reinstatement in service with retrospective effect together with all attendant service benefits, salary and allowances admissible under the governing service rules.

33. The petitioner prayed for issuance of writs in the nature of mandamus commanding the respondent authorities to withdraw, rescind, cancel, recall or forbear from giving effect to the aforesaid proceedings and orders.

34. The Learned Advocate appearing for the writ petitioner assailed the revisional order dated 28th October, 2021, received by the petitioner on 5th November, 2021, as an order bearing the imprint of arbitrariness, mala fides and manifest non-application of mind. It was submitted that the revisional authority merely clothed the order with the appearance of consideration without in truth entering into the marrow of the grievances projected by the petitioner. According to the Learned Advocate, the order passed by the Inspector General was a perfunctory exercise undertaken in a mechanical fashion solely to create an outward semblance that the revisional application had been examined and rejected on merits.

35. The Learned Advocate contended that the revisional authority failed to indicate, even in the faintest measure, the aspects which actually weighed with him while affirming the order of removal. It was urged that the revisional order remained conspicuously silent regarding the detailed submissions advanced by the petitioner, particularly those contained in paragraphs 6 and 7 of the revisional application, thereby rendering the decision vulnerable as a nonspeaking and unsustainable order.

36. It was further submitted that the very foundation of the disciplinary proceeding rested upon charges which were vague, evasive and deficient

in material particulars. The Learned Counsel argued that the allegations lacked the certainty and clarity required in law to sustain a departmental proceeding involving a major penalty. According to the petitioner, no prima facie case could emerge from accusations so nebulous and internally inconsistent. It was additionally urged that previous punishments already suffered by the petitioner, whether minor or major, could not legally be amalgamated and resurrected to prejudice him in a subsequent disciplinary action.

37. The Learned Counsel next contended that the Inspector General approached the revisional proceeding with a predetermined disposition and failed to maintain the detachment expected of a statutory authority exercising quasi-judicial powers. The punishment of removal from service, according to the petitioner, stood wholly disproportionate to the nature of the alleged misconduct and disclosed a punitive severity incompatible with settled principles governing disciplinary jurisprudence.

38. The petitioner further asserted that the genesis of the disciplinary hostility lay in the grievances ventilated by him against Assistant Commandant S.B. Mishra. The Learned Counsel submitted that the petitioner had raised genuine complaints against the said superior officer and thereafter became the target of vindictive departmental action. It was argued that the petitioner had been subjected to humiliation and discriminatory treatment owing to what was described as a sectarian and provincial attitude harboured by the superior authority. According to the petitioner, neither the disciplinary authority nor the revisional authority undertook any meaningful examination into the factual background

giving rise to the allegations and instead proceeded to affirm the order of removal in a straight-lined and predetermined manner.

39. The Learned Advocate further criticised the revisional authority for repeatedly relying upon the petitioner's earlier punishments while ignoring that those penalties had already been suffered by him without demur. It was contended that such reliance effectively subjected the petitioner to repeated prejudice for matters already concluded and thereby offended settled notions of fairness.

40. Developing the argument further, the Learned Counsel submitted that while dealing with the revisional application, the Inspector General was not acting merely as an administrative superior but as an authority exercising powers carrying the trappings of a quasi-judicial forum. Therefore, the revisional authority was under an obligation to independently assess the factual and legal dimensions of the controversy with impartiality and intellectual detachment. According to the petitioner, the Inspector General failed to transcend bureaucratic formalism and affirmed the order of removal in a stereotyped manner with a closed and biased approach.

41. The petitioner accordingly contended that the revisional order dated 28th October, 2021 was illegal, unconstitutional, discriminatory, malicious and grossly disproportionate and thus liable to be set aside. Consequential relief was sought for reinstatement into service with retrospective effect together with all consequential monetary and service benefits admissible under the governing service rules.

42. Per contra, the Learned Advocate representing the respondents stoutly defended the disciplinary proceeding and the consequential orders passed by the authorities concerned. It was submitted at the outset that the departmental enquiry had been conducted strictly in accordance with the prescribed procedure and in faithful adherence to the principles of natural justice. According to the respondents, the petitioner had been afforded repeated and adequate opportunities to defend himself at every stage of the proceeding, but he consciously declined to cooperate with the enquiry process.
43. The Learned Counsel for the respondents submitted that the petitioner had developed a continuing habit of refusing official communications despite repeated attempts made by the authorities for service of notices and orders. It was pointed out that even the final order of punishment was initially sought to be served through the supervising Inspector of the Unit, but the petitioner refused to accept the same. Thereafter, the order was dispatched through speed post, which too, according to the postal endorsement, was refused by the petitioner.
44. It was further submitted that the Articles of Charge together with annexures were forwarded to the petitioner through the Company Commander, but the petitioner declined to receive the same on 13th March, 2020. According to the respondents, another attempt was made on 19th March, 2020 when the petitioner was physically present in the Unit, yet he again refused service. Ultimately, a Board of Officers had to be constituted for affixing the charge memorandum at the petitioner's government family accommodation on 12.02.2020.

45. The respondents further submitted that despite service of notices the petitioner neither submitted any written statement of defence nor participated in the enquiry proceeding. Although he appeared during the preliminary hearing held on 17th April, 2020, he allegedly refused to participate in the proceeding, declined to sign the order sheet and statements and abruptly quit from attending the enquiry. Such conduct, according to the respondents, itself reflected grave indiscipline and insubordination unbecoming of a member of a disciplined armed force.
46. The Learned Counsel argued that the petitioner persistently disregarded the notices issued by the Enquiry Officer from time to time and paid no heed to official directions. Such refusal to receive communications relating to disciplinary and administrative matters, coupled with deliberate non-cooperation in the enquiry proceeding despite being present in the Unit, furnished substantial grounds for imposition of a major penalty. The respondents characterised the petitioner's conduct as one of sheer negligence, indiscipline and insubordination incompatible with the discipline expected from a member of the Force.
47. It was further submitted that the petitioner was not merely a habitual offender but a person whose continued misconduct demonstrated complete reluctance to function within a disciplined command structure. According to the respondents, the petitioner's repeated acts disclosed unwillingness to abide by lawful authority and inability to conform to institutional discipline.
48. The Learned Counsel for the respondents lastly placed reliance upon settled principles governing judicial review in disciplinary matters and

submitted that a writ court does not sit as an appellate forum over departmental findings. It was argued that the High Court could not re-appreciate or reassess evidence adduced during the disciplinary proceeding and that the scope of interference remained confined to examine whether the procedure adopted violated principles of natural justice or statutory rules. According to the respondents, in the present case the enquiry was conducted strictly in accordance with the applicable rules and with due observance of procedural safeguards. Consequently, it was contended that no scope existed for judicial interference and the writ petition deserved dismissal with exemplary costs.

49. The edifice of the writ petition rests upon the petitioner's assertion that the departmental proceeding culminating in his removal from service was borne out of prejudice, nurtured through procedural impropriety and ultimately carried to its conclusion without affording him the safeguards of fairness embedded within the principles of natural justice. The petitioner endeavoured to portray himself as a member of the Force who, after rendering service in different establishments of the Central Industrial Security Force since 15th May, 2010, became the target of institutional hostility upon allegedly exposing certain irregularities involving superior officers to official notice. According to the petitioner, the disciplinary machinery was thereafter set into motion upon allegations which were retaliatory in character, imprecise in formulation and disproportionate in consequence.

50. The petitioner drew attention to the charge memorandum dated 12th March, 2020 whereby allegations related to false accusations against a

superior officer, insubordinate conduct towards another officer of the Unit, illegal collection of diaries from contractors attached to IOCL Paradip and repeated refusal to receive official communications issued by the authorities. The petitioner further questioned the propriety of reliance upon his previous service antecedents, contending that earlier penalties already suffered by him could not once again be employed as instruments of aggravation in a subsequent disciplinary proceeding.

51. It was further urged that the enquiry proceeding proceeded in an atmosphere bereft of fairness. The petitioner alleged non-supply of documents, inadequate opportunity to defend himself, appointment of an Enquiry Officer despite objection raised by him and conduct of the proceeding in Hindi, a language with which he claimed limited familiarity. The petitioner sought to impress upon the Court that the disciplinary authority, appellate authority and revisional authority all acted with a predetermined disposition and that the revisional order dated 28th October, 2021 bore only the outward trappings of consideration without any genuine engagement with the grounds advanced in the revisional application.

52. The submissions advanced on behalf of the respondents, however, unravel a narrative substantially at variance with the one projected by the petitioner. The Learned Advocate representing the respondents placed before the Court materials indicating repeated and sustained attempts to serve the petitioner with the Articles of Charge, annexures, notices and consequential communications. The records revealed the charge memorandum was initially sought to be served through the Company

Commander; that upon refusal by the petitioner, further attempts were undertaken on subsequent dates; and eventually a Board of Officers was constituted for affixation of the charge memorandum at the petitioner's government accommodation. The respondents further asserted that even the final order of punishment, sought to be served both through official channel and by speed post, was refused by the petitioner.

53. The records also disclose that the petitioner appeared during the preliminary hearing held on 17th April, 2020 but declined to associate himself with the enquiry proceeding, refused to sign the order sheets and thereafter withdrew from participation. The respondents contended that despite repeated notices, the petitioner neither submitted any defence statement nor cooperated with the disciplinary process and consciously rendered the proceeding *ex parte* by his own conduct.

54. The allegation of violation of natural justice cannot be examined in isolation from the conduct of the delinquent employee himself. The principles of natural justice are intended to secure fairness in decision-making; they do not furnish a sanctuary to an employee who deliberately obstructs the disciplinary process by refusing communications, avoiding participation and frustrating procedural progress at every successive stage.

55. A disciplinary authority is undoubtedly under an obligation to afford reasonable opportunity to the delinquent employee. Yet the law does not contemplate that administrative proceedings shall be rendered sterile merely because the employee elects to remain uncooperative. Fair opportunity is measured not by the subjective willingness of the employee

to participate, but by the objective availability of such opportunity. Once notices are issued, service attempts undertaken and avenues of participation allowed, the obligation resting upon the disciplinary authority stands substantially discharged. Thereafter, abstention or non-cooperation becomes a matter attributable to the delinquent himself.

56. In the present case, the records reveal persistent efforts undertaken by the authorities to communicate the charges and facilitate participation of the petitioner in the enquiry proceeding. The petitioner's repeated refusal to receive official communications cannot subsequently be transformed into an allegation that the proceedings continued in his absence. The Court cannot permit the principles of natural justice to be converted into instruments for paralysing disciplinary administration, particularly in establishments where discipline and responsiveness to lawful authority constitute foundational attributes of service.

57. Equally unpersuasive is the contention that the charges lacked clarity or specificity. The Articles of Charge disclosed with sufficient precision the nature of allegations delineated against the petitioner, namely accusations against superior officers, insubordinate conduct, refusal to comply with official communications and conduct inconsistent with the discipline expected from a member of the Force. The petitioner himself addressed each of those allegations in considerable detail before the appellate and revisional authorities as also before this Court. The plea that the petitioner remained unaware of the allegations or incapable of understanding the substance thereof thus lacks convincing force upon examination of the record itself.

58. This Court also cannot accede to the invitation to undertake a re-evaluation of the evidentiary materials forming the basis of the disciplinary findings. The contours of judicial review under Article 226 of the Constitution remain well delineated. A writ court does not don the mantle of an appellate authority for reassessing factual determinations arrived at in a departmental enquiry. The Court does not weigh the evidence as though conducting a fresh adjudication upon facts, nor does it substitute its own conclusions merely because another view may appear plausible.

59. The Hon'ble Apex Court in ***Biecco Lawrie Ltd. & Anr. v. State of West Bengal & Anr.***[1]**,** held as follows:-

> *"22. In South Indian Cashew Factories Workers' Union v. The Managing Director, Kerala State Cashew Development Corporation Ltd. and Ors. [(2006) 5 SCC 201], it was held that the inquiry had been conducted by the Assistant Personnel Manager of the Corporation and the Union raised an industrial dispute in which Labour Court set aside the inquiry on the ground of institutional bias as the Enquiry Officer was part of the same institution and had also made certain uncorroborated remarks against the employee. This Court in appeal held that mere presumption of bias cannot be sustained on the sole ground that the officer was a part of the management and where findings of the Enquiry Officer were based on evidence and were not perverse, the mere fact that the inquiry was conducted by an officer of the management would not vitiate the inquiry.*
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> *23. On a bare perusal of these decided cases, it could be strongly established that the fact that P.K.Mukherjee, the Enquiry Officer, who was also the company lawyer cannot be considered as being "biased and partisan" who favoured and was partial towards the management of the company.*
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> *....*
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> *26. However in The State of Karnataka & Anr. v. Mangalore University Non-Teaching Employee's Association & Ors. [(2002) 3 SCC 302] the requirement of notice will not be insisted upon as a mere technical formality when the party*

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[1] AIR 2010 Supreme Court 142

concerned clearly knows the case against him and is not thereby prejudiced in any manner in putting up an effective defence, then violation of the principle of natural justice cannot be insisted upon.

27. In the present case, the materials on record show that the respondent had been furnished with proper notices intimating him the date, time and place of hearing well before time and the respondent has also received notices as is indicated from the postal acknowledgements made by him in his own letters addressed to the management.

...

50. While dealing with the domestic inquiry and misbehaviour by an employee at one inquiry and refusal to attend the next inquiry, this Court in Eastern Electric & Trading Co. vs. Baldev Lal [(1975) 4 SCC 684] observed that the misbehaviour by an employee at one inquiry and refusal to attend the next inquiry held even after adjournment if the employee did not appear in the domestic inquiry, the ex parte inquiry held by the Inquiry Officer cannot be vitiated and must be held to be valid."

60. The Hon'ble Supreme Court in ***Union of India v. Alok Kumar***[2]**,** held the following:-

"85. Doctrine of de facto prejudice has been applied both in English as well as in Indian Law. To frustrate the departmental inquiries on a hyper technical approach have not found favour with the Courts in the recent times. In the case of S.L. Kapoor v. Jagmohan [1980 (4) SCC 379], a three Judge Bench of this Court while following the principle in Ridge v. Baldwin stated that if upon admitted or indisputable facts only one conclusion was possible, then in such a case that principle of natural justice was in its self prejudice would not apply. Thus, every case would have to be examined on its own merits and keeping in view the statutory rules applying to such departmental proceedings. The Court in S.L. Kapoor (supra) held as under:

86. Expanding this principle further, this Court in the case of K.L. Tripathi v. State Bank of India [(1984) SCC 379 held as under:

"31. ... It is not possible to lay down rigid rules as to when the principles of natural justice are to apply, nor as to their scope and extent. There must also have been some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the facts and circumstances of the case, the nature of

[2] 2010 (5) SCC 349

the inquiry, the rules under which the tribunal is acting, the subject-matter to be dealt with, and so forth."

87. In the case of ECIL v. B. Karunakar [(1993) 4 SCC 727], this Court noticed the existing law and said that the theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are neither incantations to be invoked nor rites to be performed on all and sundry occasions. Whether, in fact, prejudice has been caused to the employee or not on account of denial of report to him, has to be considered on the facts and circumstances of each case. The Court has clarified even the stage to which the departmental proceedings ought to be reverted in the event the order of punishment is set aside for these reasons.

88. It will be useful to refer to the judgment of this Court in the case of Haryana Financial Corporation v. Kailash Chandra Ahuja [2008 (9) SCC 31] at page 38 where the Court held as under:

"21. "From the ratio laid down in B. Karunakar it is explicitly clear that the doctrine of natural justice requires supply of a copy of the inquiry officer's report to the delinquent if such inquiry officer is other than the disciplinary authority. It is also clear that non- supply of report of the inquiry officer is in the breach of natural justice. But it is equally clear that failure to supply a report of the inquiry officer is in the breach of natural justice. But it is equally clear that failure to supply a report of the inquiry officer to the delinquent employee would not ipso facto result in the proceedings being declared null and void and the order of punishment non est and ineffective. It is for the delinquent employee to plead and prove that non- supply of such report had caused prejudice and resulted in miscarriage of justice. If he is unable to satisfy the court on that point, the order of punishment cannot automatically set aside."

61. The Hon'ble Supreme Court in ***The State of Karnataka v. N. Gangaraj[3],*** held as follows:-

"9. In State of Andhra Pradesh & Ors. v. S. Sree Rama Rao, a three Judge Bench of this Court has held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed

[3] (2023) 3 SCC 423

in that behalf, and whether the rules of natural justice are not violated. The Court held as under:

"7. …The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. …"

10. In B.C. Chaturvedi v. Union of India, again a three-Judge Bench of this Court has held that power of judicial review is not an appeal from an decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches necessarily correct in the eyes of court. The court/tribunal in its power of judicial review does not act as an appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under:

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is 3 (1995) 6 SCC 749 entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry 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, the Court/ Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co- extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/ Tribunal. In Union of India v. H.C. Goel [(1964) 4 SCR 781], this Court held at page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

10. In High Court of Bombay v. Shashikant S. Patil & Anr., this Court held that interference with the decision of departmental authorities is permitted if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry while exercising jurisdiction under Article 226 of the Constitution. It was held as under:

...

12. In State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya [State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721] , this Court held that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be ground for interfering with the findings in departmental enquiries. The Court held as under:

"7. ... Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (vide B. C. Chaturvedi vs. Union of India - 1995 (6) SCC 749, Union of India vs. G. Gunayuthan - 1997 (7) SCC 463, and Bank of India vs. DegalaSuryanarayana - 1999 (5) SCC 762, High Court of Judicature at Bombay vs. Shahsi Kant S Patil - 2001 (1) SCC416).

13. In another judgement reported as Union of India v. P. Gunasekaran6, this Court held that while reappreciating evidence the High Court cannot act as an appellate authority in the disciplinary proceedings. The Court held the parameters as to when the High Court shall not interfere in the disciplinary proceedings:"

62. The Hon'ble Supreme Court in ***The State of Uttar Pradesh v. Ram Prakash Singh***[4], observed as follows:-

"3. ...

II. This Court in Board of Directors Himachal Pradesh Transport Corporation v. HC Rahi, has held that the principles of natural justice cannot be viewed in a rigid manner. The application of these principles depends on the facts and circumstances of each individual case. To sustain the plea of violation of principles of natural justice, one must establish how he has been prejudiced by the violation. In the present case, Respondent was aware of the disciplinary proceedings, yet, refused to participate in the same. It can be inferred from the respondent's actions that he had waived any right to natural justice."

63. Interference becomes warranted only where the decision-making process is vitiated by demonstrable mala fides, patent arbitrariness, procedural illegality or findings so utterly divorced from the evidentiary record that they shock the conscience of judicial scrutiny. None of those features emerge with sufficient force from the present record.

64. The petitioner's allegations of bias and provincial prejudice remain resting substantially upon assertion rather than substantiated material. Accusations of mala fides against superior officers, particularly in matters of disciplinary control within a uniformed force, demand a degree of evidentiary firmness far greater than speculative inference or subjective perception. The materials placed before the Court do not disclose circumstances of such compelling character as would justify the

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conclusion that the entire disciplinary framework stood contaminated by institutional bias.

65. The distinctive nature of service under the Central Industrial Security Force is glaringly unique and accountable. A member of such force is not engaged in ordinary civil employment divorced from considerations of command, obedience and institutional discipline. The architecture of a disciplined force survives upon prompt compliance with lawful authority, respect for hierarchical structure and unwavering responsiveness to official command. Indiscipline within such services possesses consequences extending beyond individual misconduct; it has the capacity to erode collective functioning and institutional confidence.

66. Repeated refusal to receive official communications, deliberate non-cooperation with disciplinary proceedings and demonstrable disregard towards superior authority strike at the very discipline which forms the lifeblood of such organizations. A force entrusted with the protection of strategic industrial establishments and public assets cannot function upon selective obedience or episodic compliance. Recalcitrance, if repeatedly tolerated, gradually weakens the moral and administrative fabric upon which disciplined institutions stand erected.

67. The service antecedents of the petitioner, as noticed by the disciplinary authority and referred to by the revisional authority, also cannot be brushed aside as wholly irrelevant. Previous penalties may not independently determine guilt in a subsequent proceeding; yet while considering the proportionality of punishment and the overall suitability of an employee to continue within a disciplined establishment, the

authorities are not expected to proceed in studied ignorance of the employee's past conduct and behavioural history.

68. The submission that the punishment of removal from service stands disproportionate likewise does not commend acceptance before this Court. The disciplinary authority, situated within the operational framework of the Force and acquainted with the practical consequences of misconduct upon institutional discipline, remains the primary judge of the gravity and operational impact of delinquency committed by a member of the service. Judicial review does not extend to substitute the Court's own subjective assessment of what punishment ought to have been imposed. Unless the punishment appears outrageously disproportionate, vindictive in character or so irrational as to defy accepted standards of administrative fairness, judicial restraint remains the governing principle.

69. In the present matter, the punishment imposed cannot be characterised as one so unconscionably excessive as to warrant interference under writ jurisdiction. The disciplinary authority, appellate authority and revisional authority each considered the matter within the framework of the governing rules and arrived at concurrent conclusions regarding the petitioner's conduct. The Court does not discern circumstances warranting displacement of those findings through judicial substitution.

70. The departmental proceeding was conducted in substantial conformity with the governing statutory framework and procedural safeguards; that adequate opportunity was afforded to the petitioner to participate in the enquiry; that the allegation of violation of natural justice does not withstand scrutiny when tested against the petitioner's own conduct

during the proceeding; and that neither the order of the disciplinary authority nor the appellate or revisional orders suffer from arbitrariness, perversity or procedural illegality warranting interference under Article 226 of the Constitution of India.

71. In view of the above discussions, the instant writ petition being WPA 18933 of 2021 is dismissed.

72. There is no order as to costs.

73. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)