



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2986 OF 2012

CONST. AMAR SINGH

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

JUDGMENT

ATUL S. CHANDURKAR, J.

1. The appellant, a constable with the Central Industrial Security Force-CISF is aggrieved by the penalty imposed pursuant to disciplinary proceedings initiated against him by the respondents.
2. When the appellant was serving as a constable at Mallaram Camp, he was served with a statement of articles of charge wherein it was stated that on 27.08.1995 he had left the Camp without prior permission and had trespassed into family quarters of one Mr. Jhan Mohammed at a distance of about 12 kms from his company Camp. It was also stated that the appellant was guilty of gross indiscipline and conduct unbecoming of a member of the Armed Forces of the Union as he had indulged in unwarranted activities affecting the reputation of the Force amongst the civilians of the colony. The

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appellant was placed under suspension on 28.08.1995. The appellant denied the aforesaid charges. During the course of the disciplinary proceedings, the respondents examined two witnesses while the appellant examined himself in defence. The Inquiry Officer at the conclusion of the inquiry submitted his report dated 16.12.1997 holding that both the charges had been proved against the appellant. The appellant made a representation against the Inquiry Report. The Disciplinary Authority, the Commandant, on 17.01.1998 proceeded to impose the penalty of reduction of appellant's pay to the minimum of the pay-scale under the Fifth Pay Commission for a period of three years from 01.02.1998. Future increments were also withheld during the period of reduction of pay-scale. The appellant preferred an appeal against the aforesaid order. The Appellate Authority on 23.04.1998 agreed with the findings as recorded but found that the penalty awarded to the appellant was excessive. He therefore modified the order of penalty and directed reduction of the appellant's pay-scale by one stage for a period of two years from 01.02.1998. The appellant was held not entitled to earn any increment during the said period.

3. The appellant being aggrieved approached the Delhi High Court for challenging the order of penalty. The Division Bench considered the entire matter in detail. After appreciating the report of the Inquiry

Officer it held that the appellant had in fact taken permission in the form of an out-pass that had been issued for a duration of two hours for going to a hospital. It therefore held that he had left the Camp with permission. However, insofar as second charge was concerned, it held that the appellant was found at a distance of 12 kms from the Camp when in fact he had been granted permission to visit the hospital. It also found from the material on record that on account of his conduct, the civilians at the area had detained him as a result of which the appellant's superior officers were required to come to the site. Only on the assurance that some departmental action would be taken against the appellant was he permitted to go.

The High Court therefore found that though charge No. 1 was not proved, the evidence on record when tested on the principle of probability supported charge No. 2. It also found that the penalty as reduced by the Appellate Authority was commensurate with the wrong that was committed. It therefore dismissed the writ petition.

4. We have heard Mr. K.L. Janjani, learned counsel for the appellant and Ms. Aishwarya Bhati, learned Additional Solicitor General for the respondents. With their assistance, we have perused copy of the Inquiry Report, the orders passed by the Disciplinary Authority as well as impugned judgment. Having given thoughtful consideration to the material on record, we are satisfied that the impugned

judgment does not call for any interference. Undisputedly, the appellant was issued an out-pass on 27.08.1995 to enable him to visit the hospital between 10:00 AM to 12:00 noon on that day. Instead of visiting the hospital, the appellant was found at the residential colony at a distance about 12 kms from his Camp. The appellant in his deposition was unable to produce any document with regard to his visit to the hospital. He admitted that he had visited the residential colony to enquire about the quarters allotted to another constable. He further admitted that he had been confined by the civilians at the residential colony and it was only after the arrival of his superior, Inspector Lakra who had assured the gathering that departmental inquiry would be held against the appellant was he permitted to go. The High Court rightly found that the first charge that the appellant had left the camp without prior permission had not been proved. It however found that though the first limb of charge No. 1 was not established, the other limb of the said charge read with charge No. 2 had been proved. It was factually found that the appellant was at a distance of about 12 kms from the Camp instead of the hospital and that he had been detained by civilians on account of indulging in some unwarranted activity. Though it was held that there was no evidence of trespass into the family quarter of Mr. Jhan Mohammed, the fact that the appellant

was permitted to leave only after intervention of his superiors who had assured departmental action against him was sufficient to hold that the appellant had indulged in some unwarranted activity by which the civilians were agitated thereby affecting the reputation of the Force amongst the civilians. The penalty as modified by the Appellate Authority of reducing his pay-scale by one stage for a period of two years from 01.02.1998 and depriving him of any increment during the period of reduction was found to be commensurate with the wrong committed.

5. The High Court having examined the entire matter in detail and there being no grievance raised by the appellant of breach of principles of natural justice during the course of the disciplinary proceedings, we do not find that this is a fit case to exercise discretion under Article 136 of the Constitution of India, more so when the appellant is a member of the disciplined force. The civil appeal is accordingly dismissed with no order as to costs. Pending interim application is also disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI,
AUGUST 29, 2025.