2026 INSC 1221

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2026
[Arising out of SLP (C) Nos. 28027-28028 of 2024]

SUMIT KUMAR …APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. …RESPONDENT(S)

J U D G M E N T

SATISH CHANDRA SHARMA, J.

1. Leave granted.

2. The present appeals arise out of the judgment and order dated 14.02.2024 passed by the High Court of Delhi at New Delhi (hereinafter referred to as the "High Court") in W.P.(C) No. 8173 of 2020, whereby the Division Bench dismissed the writ petition preferred by the Appellant and upheld the penalty of removal

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Reason:

from service imposed upon him, and the order dated 12.07.2024 passed in Review Petition No. 114 of 2024, whereby the Appellant's prayer for review of the said judgment was declined.

BRIEF FACTS

3. The facts necessary for adjudication of the present appeals are as follows:

(i) The Appellant was appointed as a Constable (General Duty) in the Central Industrial Security Force (hereinafter referred to as the "CISF") in the year 2012. He was, at the relevant time, posted at the CISF Unit, Uranium Corporation of India Limited (UCIL), Jaduguda. The Appellant was married to one Smt. Shivani on 18.01.2015. According to the Appellant, his wife suffered serious medical complications during her pregnancy in late October 2017, culminating in a miscarriage and a major surgical procedure on 1 November 2017.

(ii) The Appellant proceeded on casual leave from 18.10.2017 to 07.11.2017 to attend to his wife, who was unwell on account of complications during pregnancy. On 31.10.2017, her condition deteriorated and she was hospitalised. According to the Appellant, his wife suffered her fourth miscarriage and underwent surgery on 01.11.2017, following which she was referred to another hospital. In these circumstances, the Appellant sought an extension of leave, which was granted until

03.12.2017, with an intimation that no further extension would be allowed. The Appellant further contends that, on 27.11.2017, his wife was again admitted to hospital, where she underwent a further major surgical procedure.

(iii) However, the Appellant rejoined duty at his Unit on 03.12.2017. Upon rejoining, he applied for a further twelve days of casual leave with effect from 05.12.2017 in order to care for his wife. On 04.12.2017, the Appellant met the Assistant Commandant and produced his wife's hospital admission slip and other medical documents. According to the Appellant, the documents were considered insufficient and his request for further leave was declined.

(iv) On 05.12.2017, it is alleged that the Appellant telephoned the Commandant in connection with his leave, whereupon he was directed to report to the office on 06.12.2017 with all the documents. On 06.12.2017, the Appellant, stating that he was under acute mental stress on account of his wife's condition, tendered his resignation through the grievance portal. The said resignation came to be closed, and the Appellant was thereafter informed, on the same day, that he had been granted twelve days of leave with effect from 06.12.2017. During this period, on 08.12.2017, the Senior Commandant, NAPS Narora, visited the Appellant's residence at Kastala, Meerut, recorded his statement

and examined the medical records pertaining to his wife, who was discharged from hospital on that very day.

(v) The Appellant resumed duty on 17.12.2017 and was thereafter transferred to the CISF Unit, Heavy Water Plant (HWP), Manuguru, Telangana, where he joined on 18.01.2018. On the very day of his joining, he was served with a Memorandum of Charge dated 18.01.2018, proposing to hold an inquiry against him under Rule 36 of the CISF Rules, 2001, on the following three charges:

> ***"Charge-I**: Force No. 120717743 Constable/GD Sumit Kumar, H.W.P. Manuguru, while posted in the previous unit, UCIL, Jaduguda, on 05.12.2017, called the Commandant, UCIL, Jaduguda on his mobile in connection with the leave, upon which the commandant ordered him to come to the office on 06.12.2017 with all the documents. On 06.12.2017, the force member did not appear in the grievance room before the commandant and refused to come and the force member submitted a conditional resignation from the service and tried to pressure the unit administration. The above act of Force No. 120717743 Constable/GD Sumit Kumar, CISF being a member of an armed force signifies gross misconduct, indiscipline and negligence towards orders. Hence it is the charge.*
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> ***Charge-II**: Force No. 120717743 Constable/GD Sumit Kumar, H.W.P. Manuguru while being posted in the previous unit UCIL,*

Jaduguda on 05.12.2017 tried to threaten and intimidate through his relatives acting in the office of the Ministry of Home Affairs by calling senior officials of the unit on phone by taking judicial action against them and done the video clip of his wife viral in which his wife accused the administration of torturing the force member by not giving him a leave and also said that if anything happens to him or her husband, the senior officers of the unit will be responsible. The force member refused to identify his relatives by adopting extreme indiscipline and obstinacy and expressed ignorance. The above act of Constable No. 120717743 Constable/GD Sumit Kumar, being a member of an armed force signifies gross misconduct, indiscipline and negligence towards orders. Hence it is the charge.

***Charge-III**: Force No. 120717743 Constable/GD Sumit Kumar of H.W.P. Manuguru had been earlier awarded 05 (Five) minor penalties during his service tenure for the different kind of indiscipline activities such as submitting wrong facts, misconduct, and negligence of duty and disregard of lawful orders and had been given opportunity for improvement again and again but still he had not mended his ways. The above act of Constable No. 120717743 Constable/GD Sumit Kumar, being a member of an armed force signifies gross misconduct, indiscipline and negligence towards orders. Hence it is the charge."*

(vi) The five minor penalties referred to in Charge-III were stated to be, firstly, a deduction of three days' salary in respect of

the submission of varying certificates concerning his wife's date of birth; secondly, a reduction of pay by one stage for two years, without cumulative effect, for failure to disclose a transaction in immovable property; thirdly, a fine of five days' pay for carrying a smartphone while on duty; fourthly, the withholding of one increment for two years, without cumulative effect, again for carrying a smartphone while on duty; and fifthly, a censure for opening the door of the storeroom of the plant shift house while on duty.

THE DEPARTMENTAL PROCEEDINGS

(vii) The Appellant, not being conversant with the English language, applied on 24.01.2018 for supply of Hindi translations of the documents listed in and relied upon in the Memorandum of Charge, together with two further documents stated to be essential to his defence. The same was rejected by the Commandant by order dated 25.01.2018, and the Appellant's representations to the Deputy Inspector General and thereafter to the Inspector General met with the same result.

(viii) An Inquiry Officer was appointed on 15.02.2018, and a notice dated 16.02.2018 was issued fixing the preliminary hearing for 21.02.2018. The Appellant acknowledged the notice on 17.02.2018, endorsing that he had preferred a representation for supply of the Hindi documents and that time be extended, and

recording that he received the notice "under protest". The respondents treated this endorsement as non-cooperation and disobedience, and, by order dated 17.02.2018, placed the Appellant under suspension and imposed upon him a fine equivalent to seven days' pay.

(ix) The Appellant also sought the assistance of a defence assistant. However, his requests were rejected, by orders dated 23.02.2018, 01.03.2018 and 14.03.2018, on the ground that the defence assistant ought to be from the place of enquiry. The Appellant further sought, on the ground of bias, a change of the Inquiry Officer, which request was rejected by the disciplinary authority on 22.02.2018 and, on further representation, by the Deputy Inspector General on 14.03.2018.

(x) The preliminary hearings were held on 21.02.2018 and 22.02.2018, at which the Appellant denied the charges. The prosecution witnesses, eight in number, were examined between 28.02.2018 and 16.03.2018, and the Appellant was examined on 24.03.2018. On the Appellant's representation, the Inspector General, by order dated 28.03.2018, directed that the English documents relied upon be translated into Hindi, and the translated copies were furnished to the Appellant on 29.03.2018. The written brief of the presenting officer was furnished to the Appellant on 29.03.2018 and was replied to by him on 08.04.2018.

(xi) By a communication dated 13.04.2018, the disciplinary authority directed the Inquiry Officer to afford the Appellant a further opportunity to record his statement and to put to him the mandatory questions. On 16.04.2018, the Inquiry Officer put the mandatory questions, and the Appellant named three defence witnesses, he was, however, required to produce them within ten minutes, no enquiry notice having been issued to the said witnesses.

(xii) The Inquiry Officer submitted his report on 18.04.2018, holding all three charges to be proved. The Appellant was granted ten days to represent against the report and did so on 28.04.2018. By order dated 01.05.2018, the disciplinary authority, accepting the findings of the Inquiry Officer, imposed upon the Appellant the penalty of 'removal from service with immediate effect.' The appeal preferred by the Appellant on 22.05.2018 was dismissed by the Deputy Inspector General, DAE Zone, CISF, Hyderabad, by order dated 13.06.2018, and the revision petition preferred on 24.07.2018 was dismissed by the Inspector General (DAE & DOS), New Delhi, by order dated 04.01.2019.

IMPUGNED ORDER

(xiii) Aggrieved by the orders dated 01.05.2018, 13.06.2018 and 04.01.2019, the Appellant preferred W.P.(C) No. 8173 of 2020 before the High Court. By the impugned judgment and order

dated 14.02.2024, the Division Bench dismissed the writ petition as meritless. The High Court held that the Appellant had a chequered service history, that the fact that he did not dispute the five previous occasions on which penalties had been imposed was sufficient to conclude that he was a habitual offender, and that "*a blot is a blot, be it of the slightest degree, the magnitude thereof is of little importance*." It further held that the Appellant had displayed no remorse and had been evasive throughout the proceedings, that the departmental enquiry had been conducted in terms of the CISF Rules, 2001, and that the punishment of removal from service was commensurate with his conduct and the charges levelled against him.

(xiv) The Appellant's Review Petition No. 114 of 2024 was dismissed by the High Court by order dated 12.07.2024, holding that the Appellant was seeking to re-argue the matter, which was impermissible in the exercise of review jurisdiction. It is in these circumstances that the Appellant has approached this Court.

THE CHALLENGE

4. Learned counsel for the Appellant, assailing the impugned judgment and the orders of removal, submitted at the outset that the penalty of removal from service is grossly disproportionate to the gravity of the charges, and that the charges themselves disclose no grave or deliberate misconduct. Learned counsel

submitted that the Appellant had not been given any written direction to appear before the Commandant on 06.12.2017 and that, at the relevant time, he did not have the medical documents concerning his wife's treatment in printed form. It was contended that these circumstances explained his failure to appear before the Commandant on the said date. Further, it is asserted that the Appellant never asked any of his relatives to call or contact the Department. The Appellant had no knowledge of the video of his wife. It was contended, as regards the third charge, that the five earlier penalties had been imposed for lapses of an entirely different nature, bearing no connection with the present episode, and that the Appellant had already suffered punishment for each of them, to press them into service again, in support of a fresh penalty of removal, amounts to double jeopardy and is impermissible.

5. Learned counsel for the Appellant submitted that the departmental enquiry was conducted in flagrant breach of the principles of natural justice and of the mandatory procedure under Rule 36 of the CISF Rules, 2001. The documents relied upon in the charge memorandum were in English, which the Appellant did not follow, his request for Hindi translations was rejected and the translations were furnished on 29.03.2018, after all the prosecution witnesses had been examined and after his own examination. He was not provided with the opportunity to

cross-examine the witnesses thereafter. Learned counsel further submitted that the mandatory procedure prescribed under Rule 36(10)(b) of the CISF Rules, 2001, had not been followed. According to him, at the preliminary hearings held on 21.02.2018 and 22.02.2018, the Appellant was not asked whether he wished to engage a Defence Assistant or whether he intended to produce any documents or witnesses in his defence. These questions, it was contended, were put to him only on 16.04.2018, after the prosecution witnesses and the Appellant had already been examined. Even then, although the Appellant furnished the names of three defence witnesses, he was directed to produce them within ten minutes, without any notice being issued to them. Reliance was placed on ***State of Punjab v. Bhagat Ram***, (1975) 1 SCC 155; ***Union of India & Ors. v. J. Ahmed***, (1979) 2 SCC 286; ***Tirlok Nath v. Union of India & Ors.,*** 1960 SCC OnLine SC 4, and Rule 7(3) of the Official Languages Rules, 1976.

6. Learned counsel also submitted that the penalty of removal was, in any event, shockingly disproportionate to the gravity of the imputations and to the humanitarian circumstances in which they arose, and was therefore liable to be set aside, reliance being placed on ***Bhagat Ram v. State of Himachal Pradesh & Ors.,*** (1983) 2 SCC 442; ***Ranjit Thakur v. Union of India & Ors.***, (1987) 4 SCC 611; and ***B.C. Chaturvedi v. Union of India & Ors.***, (1995) 6 SCC 749.

7. Finally, it was contended that the High Court had decided the writ petition by a non-speaking order that failed to record any finding on the issues raised.

8. *Per contra*, learned counsel for the Respondents submitted that the departmental enquiry was held in complete consonance with the provisions of the CISF Rules, 2001, that the Appellant was afforded sufficient and reasonable opportunity to defend himself but failed to avail it within the stipulated time, and that he instead sought to derail and delay the proceedings by filing repeated applications for Hindi translations and for change of the Inquiry Officer, which were duly rejected by the competent authority. It was urged that the Appellant had been non-cooperative, that he had allegedly misbehaved with the witnesses, and that he had failed to identify his wife in the video or to disclose the identity of the relatives who had called the department.

9. It was further submitted that the conduct of the Appellant was unbecoming of a member of a disciplined armed force and that his past record of five penalties had been rightly taken into account as showing that he had failed to mend his ways despite repeated opportunities. On these grounds it was contended that the penalty of removal was commensurate with the Appellant's conduct and that no interference was called for.

DISCUSSION

10. We have heard learned counsel for the parties and perused the record. The principal question which arises for consideration is whether the Division Bench was justified in dismissing the petition filed by the Appellant and upholding the penalty of 'removal from service with immediate effect.'

11. The limits of judicial review in disciplinary matters are well settled. In ***State of Andhra Pradesh & Ors. v. S. Sree Rama Rao*****,** 1963 SCC OnLine SC 6, this Court held that:

> *"**7.**.....The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the*

High Court in a proceeding for a writ under Article 226 of the Constitution."

12. Thus, while the disciplinary authority is the primary judge of facts, and the adequacy or reliability of evidence is ordinarily not open to reappreciation by a constitutional court, interference is warranted where the proceedings are vitiated by a violation of the principles of natural justice or the statutory rules, where the findings are unsupported by evidence, or where the conclusion is one which no reasonable person could have reached.

13. The scope of interference with the quantum of punishment is, however, distinct. A constitutional court would not ordinarily substitute its own view of the appropriate penalty for that of the disciplinary authority. Nevertheless, where the punishment imposed is so disproportionate to the misconduct proved as to shock the conscience of the Court, interference would be justified. Such a punishment would be arbitrary and would offend Article 14 of the Constitution. This principle has been recognised by this Court in ***Bhagat Ram v. State of Himachal Pradesh & Ors.*** *(supra),* ***Ranjit Thakur v. Union of India*** *(supra)*, ***Union of India & Ors. v. Giriraj Sharma*****,** AIR 1994 SC 215; and ***B.C. Chaturvedi v. Union of India*****,** *(supra).*

14. Moreover, in the case of ***B.C. Chaturvedi v. Union of India*** *(supra),* this Court observed:

> "***18.*** *A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof*."

15. Applying the aforesaid principles to the facts of the present case, we proceed to examine the charges levelled against the Appellant and the material relied upon by the department in support thereof.

16. The first charge attributes to the Appellant the failure to appear before the Commandant on 06.12.2017, despite having allegedly been directed to do so with the requisite medical documents, and the submission of a conditional resignation in an attempt to pressurise the administration into granting him leave.

The Appellant, on the other hand, has explained that his wife had suffered a miscarriage and undergone major surgery, and that her medical condition had deteriorated, leaving her in need of his care. According to him, it was in the midst of these circumstances and the uncertainty surrounding his request for further leave that he submitted his resignation while under considerable mental stress.

17. The material on record must, therefore, be examined to determine whether the department established that the Appellant had been specifically directed to appear before the Commandant on 06.12.2017 and that he deliberately disobeyed such direction. A perusal of the charge memorandum dated 18.01.2018 does not disclose any specific written direction which the Appellant is alleged to have disobeyed. Nor does the inquiry record, as placed before us, disclose any contemporaneous material establishing the alleged communication. The absence of a written direction or telephone record may not, by itself, be conclusive, however, in the absence of other reliable evidence establishing that the direction was in fact communicated to the Appellant, the charge of deliberate disobedience cannot be sustained merely on the basis of the allegation. Further, the circumstances in which the Appellant submitted his resignation, particularly the serious medical condition of his wife and his request for further leave, were relevant considerations which required due examination

before attributing to him an intention to pressurise the administration.

18. The second charge attributes to the Appellant the circulation of a video of his wife and the intimidation of the administration through his relatives. The deposition of PW-1 indicates that, although the video was of the Appellant's wife, it had not been sent to him by the Appellant and had been received from a different mobile number. The record also indicates that the Appellant was present at the Unit at the relevant time, whereas the video was recorded at the hospital. More importantly, the inquiry does not disclose satisfactory evidence establishing that the Appellant had circulated the video, had caused it to be circulated, or had instigated any of his relatives to threaten or intimidate the departmental authorities.

19. The mere fact that the video concerned the Appellant's wife, or that certain persons claiming to be his relatives contacted the departmental authorities, would not, in the absence of evidence connecting their conduct to the Appellant, be sufficient to sustain the charge against him. Disciplinary liability must be founded upon misconduct attributable to the employee and established in the inquiry. The Appellant cannot be held responsible merely by reason of his relationship with the persons alleged to have engaged in such conduct. We are, therefore, unable to sustain the finding that the Appellant was responsible

for the circulation of the video or the alleged threats made by his relatives.

20. A perusal of the third charge reveals that it refers to five previous minor penalties imposed upon the Appellant and alleges that, despite the opportunities afforded to him, he had failed to mend his ways. The previous misconduct for which an employee has already been subjected to disciplinary action cannot, by itself, be treated as a fresh instance of misconduct for the purpose of imposing another penalty. The past service record may, where relevant and in accordance with the applicable rules, be considered while determining the penalty for a subsequent misconduct which has independently been established. It cannot, however, be used to supply the deficiency in proof of the charges in the present proceedings. In the present case, the reference to previous minor penalties does not establish any independent misconduct forming part of the present proceedings, nor can it be used to strengthen charges which have otherwise not been proved.

21. Before proceeding, we may also notice certain procedural irregularities in the conduct of the inquiry. The documents relied upon in the charge memorandum and listed in Annexure 3 thereto were in English, a language with which the Appellant was not conversant. The Appellant had sought their translation into Hindi by an application dated 24.01.2018. However, the translated

copies were furnished to him only on 29.03.2018, after the prosecution witnesses had been examined and the evidence had been closed. The supply of translated copies at such a belated stage deprived the Appellant of an effective opportunity to understand the material relied upon against him and to prepare his defence.

22. Further, the Appellant had sought the assistance of a defence assistant during the inquiry. The request was not acceded to, notwithstanding the provision contained in Rule 36(8)(a) of the CISF Rules, 2001. In the circumstances of the present case, particularly having regard to the Appellant's difficulty in understanding the language in which the relied-upon documents were prepared and the nature of the charges levelled against him, the denial of such assistance assumes significance. These circumstances, taken together, reinforce the conclusion that the Appellant was not afforded an effective and meaningful opportunity to defend himself.

23. The position that emerges from the foregoing discussion is that the findings recorded by the Inquiry Officer, therefore, cannot be sustained. Even if the submission of the conditional resignation is taken to have been established, the circumstances in which it was submitted cannot be divorced from the serious medical condition of the Appellant's wife and the difficulties surrounding his request for further leave. The conduct, viewed in

its entirety, does not disclose any grave or deliberate act of indiscipline warranting the extreme penalty of removal from service.

24. In the circumstances, we are unable to sustain the penalty of removal from service. The penalty of removal from service is manifestly excessive and disproportionate to the misconduct, if any, established against the Appellant. In ***Ranjit Thakur v. Union of India*** *(supra)***,** this Court held:

> "**25.** …*But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias*…"

25. Applying the aforesaid principle, we are of the view that the penalty imposed upon the Appellant is shockingly disproportionate and cannot be sustained.

26. Accordingly, the appeals are allowed. The judgment and order dated 14.02.2024 passed by the High Court of Delhi in W.P.(C) No. 8173 of 2020, as well as the order dated 12.07.2024 passed in Review Petition No. 114 of 2024, are set aside. Consequently, the order of removal dated 01.05.2018, as affirmed by the appellate authority on 13.06.2018 and the revisional authority on 04.01.2019, is also quashed and set aside. Having regard to the passage of time and the circumstances of

the present case, we do not consider it appropriate to remit the matter for a fresh inquiry. Such a course would only prolong the proceedings and serve no useful purpose. The Appellant shall, accordingly, be reinstated in service forthwith. He shall be entitled all consequential benefits and 50% of the back wages for the period commencing from the date of his removal until his reinstatement.

……..……..……J.
[SATISH CHANDRA SHARMA]

……..……..……J.
[NONGMEIKAPAM KOTISWAR SINGH]

New Delhi
November 16, 2026