

GAHC010028002017



2026:GAU-AS:1991

**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/3737/2017**

ARUP DAS  
S/O. SRI JAGARNATH DAS, R/O. VILL. BHAWANIPUR, P.O. BHAWANIPUR,  
P.S. BARPETA, DIST. BARPETA, ASSAM, PIN-781352.

VERSUS

THE UNION OF INDIA and 5 ORS.  
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW  
DELHI-110001.

2:THE DIRECTOR GENERAL

CENTRAL RESERVE POLICE FORCE  
BLOCK 1  
C.G.O. COMPLEX  
LODHI ROAD  
NEW DELHI-110003.

3:THE I.G.P.

WESTERN SECTOR  
C.R.P.F.  
CGO COMPLEX  
CBD BELAPUR  
NAVI MUMBAI-400614.

4:THE DIGP RANGE HQ GROUP CENTRE

CRPF  
CHILODA ROAD  
GANDHINAGAR  
GUJARAT. PIN-382042.

5:THE DY. INSPECTOR GENERAL OF POLICE

GROUP CENTRE  
CRPF  
9TH MILE  
P.O. AMERIGOG  
DIST. KAMRUP ASSAM  
GUWAHATI-781023.

6:THE COMMANDANT

221 BN.  
C.R.P.F.  
GREATER NOIDA UP  
PIN-201306.

7:I.G.P. NORTHERN SECTOR  
C.R.P.F.  
R. K. PURAM  
NEW DELHI-110066

**:::BEFORE:::**

**HON'BLE MR. JUSTICE KARDAK ETE**

**Advocates:**

For the petitioner : Mr. K. Paul, Advocate  
Mr. J.P. Chauhan, Advocate

For the respondents: Mr. K.K. Parasar, CGC

**Date on which judgment is reserved:** 03.02.2026

**Date of pronouncement of judgment:** 12.02.2026

**Whether the pronouncement is of the**

**Operative part of the judgment :**

**Whether the full judgment has been** Yes

**Pronounced :**

## **Judgment & order(CAV)**

Heard Mr. K. Paul and Mr. J.P. Chauhan, learned counsels, for the petitioner. Also heard Mr. K.K. Parasar, learned CGC, for the respondents.

**2.** By filing this writ petition, the petitioner has put to challenge the order dated 16.01.2016, passed by the Commandant, 221 Bn. CRPF, by which the petitioner has been imposed penalty of removal from service w.e.f. 16.01.2016 and also the appellate order dated 08.07.2016 passed by the DIGP (Range HQ) as well as the revisional order dated 24.02.2017 passed by the IGP, Western Sector, CRPF, CGO Complex, CBH Belapur, Navi Mumbai, by which the appeal and revision filed by the petitioner are rejected.

**3.** The petitioner was appointed as GD Constable in 28<sup>th</sup> Bn, CRPF and had joined the service on 25.01.2006 at 28<sup>th</sup> Bn. CRPF Group Centre 9<sup>th</sup> Mile Khanapara, Guwahati, Assam. Thereafter, he was sent to Awadi Group Centre, Chennai for one year training and subsequently posted at Awadi Group Centre, Jammu and again moved to 28<sup>th</sup> Bn. CRPF Kashmir after that he was moved to 221 Bn. CRPF, Gurgaon.

**4.** The case projected by the petitioner is that on 22.06.2009, while the petitioner along with others were on escort duty (convoy) for Amarnath Yatra marched from Manigaon to Rangmodh, the petitioner met with an accident which occurred due to head on collision with a TATA Bus bearing Regd. No.JK-2AJ-9507 at Hung Island Retreat Picket No.8 under Kangan Police Station, Jammu & Kashmir. Accordingly, a case was registered against the driver of the said vehicle. In the said accident the petitioner sustained severe injuries on his head and chest for which initially he was admitted at Kangan Medical Hospital and thereafter shifted to Kashmirchara Hospital. Even after long period of treatment, though the petitioner could recover

to some extent, but the impact remains and sometimes he suffers from severe pain on his head, chest and body. Resultantly, used to loose his mental stability intermittently. In the said accident two of his colleagues who were also with him on duty died in the hospital that day itself, which gave shock to the petitioner.

**5.** While the petitioner was under such situation, vide notice dated 13.03.2015, the Commandant 221 Bn. CRPF informed the petitioner that an enquiry is proposed to be held against him under the provision of Section 27 of the CRPF Manual 1955 for showing negligence in performing duty and other misdeeds on the 2 (two) charges that on 09.02.2015, the petitioner consumed alcohol and refrain from attending duty and b. on 09.03.2015 while the petitioner was produced before the Commandant in his "orderly room" he was found in a drunken state. The petitioner was informed that enquiry will begin atleast one day after the charges are read over and explained to the accused, consequent to which the respondent authority initiated the inquiry.

**6.** On completion of Inquiry, the Inquiry Officer prepared his report on 12.09.2015 and submitted to the Disciplinary Authority, holding the charges to be substantiated and proved. A copy of the inquiry report was furnished to the petitioner on 08.10.2015.

**7.** The Commandant 21 Bn. CRPF vide impugned order dated 16.01.2016 has imposed a penalty of removal from service w.e.f. 16.01.2016 thereby, removing the petitioner from the battalion. The petitioner filed appeal on 09.02.2016 before the DIGP (Range HQ) Group Centre, CRPF, Chiloda Road, Gandhinagar against the order of removal from service and the same was dismissed by the DIGP vide order dated 08.07.2016 by upholding the order of removal from service. Thereafter, the revision petition of the petitioner was also rejected by the I.G.P. Western Sector, CRPF, CGO, Complex vide order dated 24.02.2017. Hence, this writ petition.

**8.** Mr. K. Paul, learned counsel for the petitioner, submits that in case of punishment of dismissal/removal from service of constables, Commandant is competent to award such punishment to be inflicted after formal departmental enquiry. The procedure for conducting departmental enquiry is laid down in Rule 27(c) which would show that the substance of the accusation has to be reduced in the form of a writing which should be precise. The charge should be read out to the accused and a copy of the same should be given to him at least 48 hours before commencement of the enquiry.

**9.** Mr. K. Paul, learned counsel submits that the Enquiry Officer had never read out the charges to the accused. Since the petitioner studied upto Class X standard, he does not have any knowledge regarding departmental proceedings. Petitioner was not provided any defense Assistant. At the time of putting questions, the Presenting Officer was not present. There was no any question as regard to whether he pleaded 'guilty' or 'not guilty'. Therefore, it is clear that there was a complete violation of Rule 27(c) and as such the entire departmental proceedings is vitiated.

**10.** He submits that Inquiry Report dated 12.09.2015 does not reveal anything as to whether petitioner was asked to enter a plea of 'guilty or 'not guilty. The enquiry report also does not disclose that the Enquiry Officer had asked the petitioner to file written statement along with list of such witnesses, which he could rely upon in his defense within a period not less than a fortnight in terms of Rule 27(c)(iv) of the CRPF Rule 1955 which has fundamentally vitiated the conduct of enquiry by the Enquiry Officer. Enquiry Report also reflects that the Enquiry Officer himself interrogated the accused and at that time there is no any evidence of presence of Presenting Officer. It also appears from the Enquiry Report that on the day of Enquiry, the Enquiry Officer alone put the questions to the petitioner. He should not put questions like a Presenting Officer to the delinquent to prove the charges

levelled against the delinquent. From such action of the Inquiry Officer it can be said that the Inquiry Officer is to the extent biased to the petitioner, which is impermissible in law.

**11.** He submits that from Inquiry Report, it shows that after availing 15 days leave on account of his family problems (i.e. w.e.f. 30.05.2015 to 15.06.2015), the accused appeared before the Enquiry Officer on 15.06.2015 whereupon his statement was recorded. On the other hand, statement of most of the witnesses were recorded in absence of the accused within his leave period.

**12.** Mr. K. Paul, learned counsel further submits and canvassed the following points:-

I). The purported Office Order dated 29.04.2015 was never served/communicated to the petitioner which is supported by the Office Notes of the Department, as there is no indication that the said document was served to the petitioner.

II). Medical Report dated 09.02.2015 opined that "Individual has consumed alcohol / alcohol like substance" only on the basis of smell of breath as no Blood or Urine test was done. No Doctor/Medical Officer of so called Medical Report dated 09.02.2015, was examined or proved during the enquiry.

III). There is no any eye witness with regards to the consuming of alcohol by the petitioner and in absence of any eye witness, it cannot be said that petitioner had consumed alcohol. Persons who are in the Force are always supplied with alcohol by the Govt. through their CDS canteen. Therefore, penalty is highly disproportionate. Other than major punishment there are provisions for minor punishment for which lenient view could have been taken.

IV). There is no bar for consuming alcohol during off duty. For refusing to attain duty, the authority may mark him absent on that particular day instead of removal from service. Therefore, punishment of removal from service is highly

disproportionate.

V). Petitioner fell under the trap because of some compelling circumstances due to unfortunate motor accident wherein two of his colleagues died on the spot and the petitioner sustained grievous injuries, as a result of which petitioner fell into depression and could not concentrate his duties off and on.

VI). Petitioner's family consists of one year old minor daughter, old age ailing parents and wife. All the members are dependend on the income of the petitioner. Due of jobless, he is suffering from extreme hardship to look after his family.

**13.** Mr. K. Paul, learned counsel submits that under the aforesaid fact and circumstances, the impugned order of removal from service of the petitioner may be set aside and quashed and direction may be issued to reinstate in service with 50% back wages as held by the Hon'ble High Court as well as Hon'ble Apex Court in various decisions from time to time, for the ends of justice.

**14.** In support of his submissions, Mr. K. Paul, learned counsel has placed reliance upon the following judgments:-

- i). ***Hriday Das –vs- Union of India, reported in 2015 (4) GLT 1034***
- ii). ***Soneswar Roy –vs- Union of India, reported in 2015 (6) GLR 772***
- iii) ***Yanpothung Lotha -VS- State of Nagaland, reported in 2014 (5) GLT 744***
- iv). ***W. Birbal Singh -vs- State of Manipur reported in 2010 (5) GLT 371***
- v). ***Union Of India -vs- Ram Lakhan Sharma, reported in (2018) 7 SCC 670***
- vi) ***Munnal Lal –vs- Union of India and Others reported in (2010) 15 SCC 399***

**15.** On the other hand, Mr. K.K. Parasur, learned CGC for the respondents, submits that the petitioner was enlisted in CRPF as Constable/GD and during his service on 09.02.2015, while on 'active duty, he consumed alcohol during the day and night and when he was detailed for mortha duty, he had vehemently refused to perform duty and disobeyed the orders of the senior. During the medical examination conducted at Group Center, CRPF, Gurgaon on 09.02.2015, it has been established that he had consumed alcohol/ alcohol like substance. The petitioner was ordered to be produced before the competent authority to deal him in "Orderly Room" on 09.03.2015 and on that day also he was found to be under influence of alcoholic for which he was referred to Civil Government hospital. The Doctor of Civil Government Hospital opined that he had consumed alcohol but not under its influence. Accordingly, Memorandum with two article of charges was issued on 13.03.2015 and a copy of the same was provided to the petitioner on 20.03.2015. Thereafter, vide order dated 29.04.2015, Enquiry Officer and Presiding Officer were also appointed and a copy of the said letter was also supplied to the petitioner. On 22.05.2015, the Enquiry Officer called the petitioner for preliminary hearing, wherein he stated that he had properly understood the charges of Article 01 & 02 of the Memorandum. Again, to a question asked by the Enquiry Officer that in which language you want to proceed with the enquiry, the petitioner replied that "in Hindi sir". Moreover, in the said preliminary hearing the petitioner had accepted both the charges and pleaded guilty. Accordingly, he was granted 48 hours time to produce any witness in his defense and after the stipulated time, the enquiry would be started.

**16.** He submits that thereafter, statements of 8 nos. of prosecution witnesses were recorded on different dates but the accused did not produce any evidence in his defence. The Enquiry Officer vide notice dated 18.08.2015 provided 20 days time to the petitioner for his defence and accordingly, the petitioner given his

statement on 10.09.2015 before the Enquiry Officer, where he confessed regarding the act of consuming alcohol. The Enquiry Officer submitted his report on 11.09.2015 and a copy of the Enquiry Report was handed over to the petitioner with a direction to submit representation or submission if any within 15 days from the date of receipt of the letter. However the petitioner though received the said letter and the Enquiry report on 09.11.2015, did not submit any reply.

**17.** He submits that the petitioner was given adequate opportunity to prove his innocence but he failed to do so. Accordingly, the disciplinary authority has imposed the penalty of 'Removal from Service' and the subsequent appeal and revision petition filed by the petitioner have also been rejected being devoid of any merit. The departmental enquiry was conducted by following due procedure of law and giving all reasonable opportunity to the petitioner to defend his case. The petitioner cannot take a different stand in the writ petition by narrating anything, which was not taken by him in his appeal and revision preferred before the departmental authority. Even in his appeal filed on 09.02.2016, the petitioner again admitted his guilt and he never denied that he had not consumed alcohol during the duty hours.

**18.** Mr. Parasar, learned CGC, submits that the petitioner by narrating the facts in different way is trying to gain sympathy from the Hon'ble Court but considering the facts and circumstances of the case, and also in view of the settled law that when there is no procedural lapses, the scope of judicial review of the departmental enquiry is very limited. Therefore, writ petition is liable to be dismissed being devoid of merit.

**19.** Due consideration has been extended to the submissions of learned counsel for the parties and have perused the record.

**20.** The petitioner who was serving as GD constable in 28<sup>th</sup> Battalion, CRPF, was subjected to disciplinary proceedings on the following charges:-

“CHARGE-I

*That while performing the duty of Constable with E/221 BN, Suratgarh, C/GD Arup Das acted in violation of the rules when, on 09-02-2015, he consumed alcohol and refrained from attending duty allotted to him. Medical examinations confirmed that the worker had taken alcohol. Such action by the worker in his capacity as an active member of the Force was not only a bad example set by him, it was an offence punishable U/S 11(1) of the CRPF Act, 1949 R/W Rule 27 of the CRPF Regulations, 1955.*

CHARGE-II

*That while acting as a Constable with E/221, BN, accd. Arup Das acted in violation of the orders when on being produced in the orderly room of the Commandant, 221 BN on 09-03-2015, he was found in a drunken state. He was then subject to medical test and it was confirmed that he had taken liquor. The activities of the worker was contrary to the motto of discipline, dignity of the force and by acting in that manner, the worker had committed offence punishable U/S 11(1) of the CRPF Act, 1949 R/W section 27 of the CRPF Regulations, 1955”*

**21.** The petitioner was enlisted in CRPF as Constable/GD on 25.01.2006. On 09.02.2015, while on duty hours, the petitioner was alleged to have been found consuming alcohol and when he was detailed for duty, he has refused to perform duty and disobeyed the orders of the authority. On medical examination on 09.02.2015, he was found to have consumed alcohol/alcohol like substance. The petitioner was ordered to be produced before the competent authority in "Orderly Room" on 09.03.2015 and on that day also he was found to be under the influence of alcoholic for which he was referred to Civil Government hospital. The Doctor of Civil Government Hospital opined that he had consumed alcohol but not under its influence at the relevant time.

**22.** Consequently, memorandum with two article of charges was issued on 13.03.2015 and a copy of the same was furnished to the petitioner on 20.03.2015. Vide order dated 29.04.2015, Enquiry Officer and Presiding Officer were appointed and a copy of the said letter also supplied to the petitioner. On 22.05.2025, the Enquiry Officer conducted preliminary hearing, wherein he stated that he had properly understood the charges of Articles. On a question asked by the Enquiry Officer that in which language he would proceed with the enquiry, the petitioner replied that inquiry be proceeded with in "Hindi". The petitioner appears to have pleaded guilty as he had replied 'Yes Sir, I accept" to the question as to whether he accept the charges. Accordingly, he was granted 48 hours time to produce witness in his defense and after the stipulated time, the enquiry would be started.

**23.** Records reveal that in the departmental proceedings, altogether 8 (eight) prosecution witnesses were examined and their statements were recorded on different dates. The petitioner did not produce any evidence in his defence. The Enquiry Officer vide notice dated 18.08.2015 has provided 20 days time to the petitioner for his defence.

**24.** PW-1, Ram Singar Shukla who was In-Charge of CHM in E/221 BN had stated that on coming to learn that the petitioner was not at his post, on enquiry it was learnt from Section Commandar that the petitioner had been in the state of drunkenness and was not in a position to discharge his duty, which was reported to the company commander. Thereafter, the petitioner was taken to the hospital and was subjected to medical examination and confirmed that the petitioner had consumed alcohol and was in a state of intoxication.

PW- 2, N Vellumurugan had stated that when the platoon members were being counted for placing on duty, the petitioner found to be not reported for and he had

been lying on the line under intoxication. Thereafter, the petitioner was taken to hospital and subjected to medical test.

PW-3, Bhagawan Singh stated that when the members of the company were being grouped into platoon, the section commandant reported that the petitioner had not reported for counting and he had been lying on the line in drunken state and accordingly, he was taken to hospital and was subjected to medical examination.

PW-4, Sushil Kumar stated that the petitioner was found missing from the line when the company was being sorted for forming the platoon and was found in his own room in drunken state and was not in a position to stand in the line, thereafter, he was taken for medical examination.

PW-5, Kalgude Uttam (SIA) stated that when the petitioner was asked to appear before the Commandant in his orderly room for not attending the sentry duty, the petitioner reported in the orderly room on the charge that he had consumed wine for which he was ordered to undergo medical test. Accordingly, he was medically examined and was found to have consumed liquor.

PW-6, Satendra Singh had stated that the petitioner was produced before the Commandant in his orderly room and found to have under intoxication. Accordingly, the Commandant ordered that the petitioner be subjected to medical treatment for medical test and during the medical examination, he was found to have consumed alcohol.

PW- 7, Tamildasan had stated that on receipt of information that the petitioner had consumed alcohol he was referred to Group Centre Hospital, Suratgarh, Rajasthan for medical examination by an emergency vehicle which was requisitioned and accordingly taken to the hospital and was medically examined.

PW- 8, Subhash Chandra had stated that he was assigned the duty of Guard

Commander at Morcha No.1 designed to provide security to the Jawans. He made the necessary entries in the duty register but the petitioner was not found present and when he approached the petitioner he told him that he was on Morcha No.1 and on asking that why he had not reported for duty and the petitioner had stated that he was not feeling well and was not in a position to discharge duty.

**25.** 6 (six) documentary evidences have also been adduced including the medical test report issued by the Medical Officer, CRPF, Gurgaon and the Medical Officer, Suratgarh indicates that the petitioner had consumed alcohol and was not attending duty.

**26.** The petitioner did not adduce any evidence but his statement was recorded on 10.09.2015 where he had admitted the allegation of consuming alcohol.

**27.** On completion of departmental proceedings, the Enquiry Officer submitted his report on 11.09.2015 and a copy of the Inquiry Report was furnished to the petitioner vide letter dated 08.10.2015 with a direction to submit representation if any within 15 days from the date of receipt of the letter. But, the petitioner even after receipt of the said letter and the Inquiry report on 09.11.2015, did not submit any reply, except in his statutory appeal to state that though he was directed to put show cause I could not do it as because he was under depression on account of his domestic problems as well as consequence of the accident and the injury sustained on 22.06.2009 and tendered apology for all the acts committed by him.

**28.** Upon perusal of the records, it is seen that the petitioner was provided adequate opportunity in the proceedings. Thus, the departmental proceeding was conducted by following due procedure of law and giving all reasonable opportunity to the petitioner to defend his case. The petitioner not only admitted the charges in the inquiry/proceedings but also in appeal and he never denied that he had not

consumed alcohol.

**29.** The petitioner in his defence has stated that he met with an accident when he was on escort duty to Amarnath Yatra marched from Manigaon to Rangmodh and in that accident, he sustained injuries and because of which he was suffering from constant pain in his head and body. In order to get rid of that pain he had consumed alcohol w.e.f. 09.02.2015 to 03.03.2015. It is on record that the petitioner was asked to cross-examined the PWs, however, he had declined. He did not examined any witnesses or adduced any evidence in his defence.

**30.** Perusal of the Inquiry report and after careful consideration of the statements of the petitioner, the prosecution witnesses and the documents, it is clear that on 09.02.2015 during duty hours, petitioner had consumed alcohol. For that reason he was subjected to medical test, the medical test confirmed that the petitioner had indeed consumed liquor and that he had been in a state of intoxication. On 09.02.2015 the petitioner refused to performed duty. When he appeared before the Commandant in connection with that incident on 09.03.2015, he was found under influence of alcohol. He was again subjected to medical test at the Civil Hospital and it was confirmed that he had consumed alcohol. The petitioner had made feeble attempt of excuse that he had formed the habit of consuming alcohol because of the accident that took place on 22.06.2009 as he has been suffering from severe headache. Thus, I find that the findings of the Enquiry Officer are founded on the evidences/statements in the proceedings and thus, the charges stand to have been proved.

**31.** On violation of provisions of rules as urged by the learned counsel for the petitioner, particularly Rule 27(c) of the Central Reserve Police Force Rules, 1955, it

is apposite to refer to the same for its appreciation, which is reproduced here in under:-

*“27 (c) The procedure for conducting a departmental enquiry shall be as follows:—*

*(1) The substance of the accusation shall be reduced to the form of a written charge, which should be as precise as possible. The charge shall be read out to the accused and a copy of it given to him at least 48 hrs. before the commencement of the enquiry.*

*(2) At the commencement of the enquiry the accused shall be asked to enter a plea of "Guilty" or "Not Guilty" after which evidence necessary to establish the charge shall be let in. The evidence shall be material to the charge and may either be oral or documentary, if oral; (i) it shall be direct; (ii) it shall be recorded by the Officer conducting the enquiry himself in the presence of the accused; (iii) the accused shall be allowed to cross examine the witnesses.*

*(3) When documents are relied upon in support of the charge, they shall be put in evidence as exhibits and the accused shall, before he is called upon to make his defence, be allowed to inspect such exhibits.*

*(4) The accused shall then be examined and his statement recorded by the officer conducting the enquiry. If the accused has pleaded guilty and does not challenge the evidence on record, the proceedings shall be closed for orders. If he pleads "Not guilty", he shall be required to file a written statement, and a list of such witnesses as he may wish to cite in his defence within such period, which shall in any case be not less than a fortnight, as the officer conducting enquiry may deem reasonable in the circumstances of the case. If he declines to file a written statement, he shall again be examined by the officer conducting the enquiry on the expiry of the period allowed.*

*(5) If the accused refuses to cite any witnesses or to produce any evidence in his defence, the proceedings shall be closed for orders. If he produces any evidence the officer conducting the enquiry shall proceed to record the evidence. If the officer conducting the enquiry considers that the evidence of any witness or any document which the accused wants to produce in his defence is not material to the issues involved in the case, he may refuse to call such witness or to allow such document to be produced in evidence, but in all such cases he must briefly record his reasons for considering the evidence inadmissible. When all relevant evidence has been brought on record, the proceedings shall be closed for orders.*

*(6) If the Commandant has himself held the enquiry, he shall record his findings and pass orders where he has power to do so. If the enquiry has been held by any officer other than the Commandant, the officer conducting the enquiry shall forward his report together with the proceedings, to the Commandant, who shall record his findings and pass orders, where he has power to do so.*

*[(cc) Notwithstanding anything contained in this rule—*

*(i) where any penalty is imposed on a member of the Force on the ground of conduct which has led to his conviction on a criminal charge; or*

*(ii) where the authority competent to impose the penalty is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an enquiry in the manner provided in these rules; or*

*(iii) where [the Special Director-General or Additional Director heading zone or Director-General] is satisfied that in the interest of security of the State, it is not expedient to hold any enquiry in the manner provided in these rules, the authority competent to impose the penalty may consider the circumstances of the case and make such orders thereon as it deems fit.*

*(ccc) When a member of the Force has been tried and acquitted by a Criminal Court, he shall not be punished departmentally under this rule on the same charge or on a similar charge upon the evidence cited in the criminal case, whether actually led or not, except with the prior sanction of the Inspector General.]"*

**32.** Rule 27(c) lays down the procedure for conducting a departmental enquiry. A bare reading of the above rule, *inter alia*, shows that the substance of the accusation shall be reduced to written charge as precise as possible. The charge shall be read out to the accused and a copy be given to him at least 48 hrs. before the commencement of the enquiry. At the commencement of the enquiry the accused shall be asked to enter a plea of "Guilty" or "Not Guilty" after which evidence necessary to establish the charge shall be let in. The evidence shall be material to the charge and may either be oral or documentary, if oral, it shall be direct, it shall be recorded by the Officer conducting the enquiry himself in the presence of the accused and the accused shall be allowed to cross examine the witnesses. The documents relied upon in support of the charge be put in

evidence as exhibits and the accused shall, before he is called upon to make his defence, be allowed to inspect such exhibits.

**33.** In the present case, as noted herein above, memorandum of charges was issued on 13.03.2015 and a copy of the same was furnished to the petitioner on 20.03.2015. Vide order dated 29.04.2015, Enquiry Officer and Presiding Officer were appointed and a copy of the said letter was also supplied to the petitioner. On 22.05.2015, the Enquiry Officer conducted preliminary hearing, wherein, the petitioner had stated that he had properly understood the charges. When question was put as to whether he accept the charges, the petitioner categorically said "Yes Sir, I accept", which is a clear pleading of guilt and therefore, the petitioner has pleaded guilty. The petitioner was granted 48 hours time to produce witness in his defense. Thus, the provision of Rule 27(c) has been substantially complied with and as such the ground of violation of the rules falls flat.

**34.** Regard being had to the contention that the penalty was inflicted only after preliminary inquiry, it is admitted position that a regular departmental proceedings was initiated after following due procedure as referred to herein above. Altogether 8 (eight) prosecution witnesses were examined and their statements were recorded on different dates. The petitioner did not produce any evidence in his defence. The Enquiry Officer vide notice dated 18.08.2015 has provided 20 days time to the petitioner for his defence. The statement of the petitioner was recorded on 10.09.2015 before the enquiry officer, where he admitted the allegation of consuming alcohol.

**35.** On completion of departmental proceedings, the Enquiry Officer submitted his

report on 11.09.2015 and a copy of the Inquiry Report was provided to the petitioner vide letter dated 08.10.2015 with a direction to submit representation, if any, within 15 days from the date of receipt of the letter. But, the petitioner though received the said letter and the Inquiry report on 09.11.2015, did not submit any reply, which is fortified in his statutory appeal where he had stated that though he was directed to show cause he could not do it as because he was depressed on account of his domestic problems as well as consequence of the accident and the injury sustained on 22.06.2009 and tendered apology for all the acts committed by him. Thus, the petitioner was provided adequate opportunity in the proceedings and the departmental proceedings was conducted by following due procedure of law and giving all reasonable opportunity to the petitioner to defend his case. The petitioner not only admitted the charges in the inquiry/proceedings but also in appeal and he never denied that he had not consumed alcohol rather stated that on account of accident, he sustained injuries and because of which he was suffering from constant pain in his head and body and in order to get rid of that pain he had consumed alcohol w.e.f. 09.02.2015 to 03.03.2015. No cross-examination of the PWs by the petitioner, as he had declined to cross examine despite an opportunity was provided and did not adduce any evidence/witness in his defence.

**36.** Coming to the case laws relied on by the learned counsel for the petitioner, although the petitioner placed many judgments but ultimately limited to three and primarily relied on 3 (three) judgments to project that no order of major penalty of removal from services can be made without holding inquiry. The cases have been duly considered. The relevant paragraphs are reproduced herein under:-

A. In **Hriday Das** (Supra), it has been held that:-

*“18. Rule 14 of the 1965 Rules lays down the procedure for imposing major penalty. No order of major penalty shall be made without holding an enquiry. The disciplinary authority may draw up definite charges of misconduct and shall serve on the Government servant a copy of the articles of charge along with supporting documents, such as, statement of imputations of misconduct or misbehavior and lists of documents and witnesses whereby the articles of charge are proposed to be sustained. A Government servant is required to submit written statement of his defence. On receipt of the written statement of defence, if the disciplinary authority is not satisfied with the explanation given he may enquire into the charges framed against the Government servant by appointing an Inquiring Authority. When an enquiry is held and Inquiring Authority is appointed, the disciplinary authority may appoint a Government servant or a legal practitioner to be known as the Presenting Officer to present the case of the disciplinary authority in support of the charges. In the enquiry, the Government servant may take the assistance of any other Government servant but may not engage a legal practitioner unless the Presenting Officer is a legal practitioner or the Inquiring Authority so permits. In the course of the enquiry, the Government servant would be entitled to cross-examine the witnesses of the disciplinary authority and may himself adduce evidence in his defence, both oral and documentary. After completion of production of evidence, the enquiry authority may hear the Presenting Officer and the Government servant or permit them to file written briefs of their respective cases. Thereafter, the enquiry authority is required to prepare his report returning his findings on the charges.*

*19. Rule 27 of the CRPF Rules, 1955, lays down the procedure for award of punishment on CRPF personnel which it appears have been adopted by the SSB. In case of punishment of dismissal from service of constables, Commandant is competent to award such punishment to be inflicted after formal departmental enquiry. The procedure for conducting departmental enquiry is laid down in Rule 27 (c). A perusal of Rule 27 (c) would show that substance of t of the accusation has to be reduced to the form of a written charge, which should be precise. The charge should be read out to the accused and a copy of the same should be given to him at least 48 hours before commencement of the enquiry. At the commencement of the enquiry, the accused should be asked to enter a plea of 'guilty' or 'not guilty', after which, evidence, both oral or documentary, should be taken. Accused would be allowed to cross-examine the witnesses. Accused would also be entitled to make his defence after inspecting the documentary evidence relied upon in support of the charge. Statement of the accused shall be recorded by the Enquiry Officer If he pleads "guilty", the proceeding should be closed for order(s). If he pleads "not guilty", he shall be required to file written statement and a list of such witnesses, which he may wish to cite in his defence within such period which shall, in any case, be not less than a fortnight. If he declines to file written statement, the accused shall again be examined by the Enquiry*

*Officer on the expiry of the period allowed. If the accused refuses to cite any witness in his defence, the proceeding should be closed for order(s). In case, he produces evidence that shall be recorded and considered. After completion of the enquiry, Enquiry Officer shall forward his report together with the record of proceedings to the Commandant who shall record his findings and pass necessary order(s).*

*20. Thus, from a conjoint reading of Rule 14 of the 1965 Rules and Rule 27 of the CRPF Rules, 1955 it is quite evident that though the enquiry was stated to have been held under both the provisions, provisions of Rule 14 of the 1965 Rules were not complied with. First of all, as per requirement of Rule 14 (4) of the 1965 Rules, petitioner was not granted time to submit written statement of defence against the articles of charge before commencement of enquiry. Straightway, enquiry was held within 48 hours of furnishing of articles of charge to the petitioner. Though under Rule 14 (5) (c) of the 1965 Rules, there is provision for appointment of Presenting Officer to present the case of the disciplinary authority, no such Presenting Officer was appointed in this case.*

*21. Coming to Rule 27 (c) of the CRPF Rules, 1955, a perusal of the enquiry report dated 27.6.2008 does not indicate that the procedure prescribed therein was followed. It is not discernible from the report as to whether the petitioner was asked to enter a plea of 'guilty' or 'not guilty' at the commencement of the enquiry. The enquiry report also does not disclose that the Enquiry Officer had asked the petitioner to file written statement along with list of such witnesses, which he would rely upon in his defence within a period not less than a fortnight as per requirement of Rule 27 (c) (iv) of the CRPF Rule 1955. This has fundamentally vitiated the conduct of enquiry by the Enquiry Officer.*

*22. As noticed above, no Presenting Officer was appointed on behalf of the disciplinary authority to present its case in the enquiry. While Rule 14 of the 1965 Rules clearly provides for appointment of Presenting Officer, Rule 27 of the CRPF Rules, 1955 does not expressly provide for appointment of Presenting Officer.*

B. In **Soneswar Roy** (Supra), it has been held that-

*“18. Under section 11 of the CRPF Act, the Commandant or any other prescribed authority may award the penalties mentioned therein on any member of the force guilty of disobedience, neglect of duty or remissness in the discharge of duty or committing misconduct in his capacity as a member of the force. The penalties include dismissal from service but imposition of punishment is subject to Rules made under the CRPF Act.*

*Section 18 empowers the Central Government to make Rules amongst others for regulating award of punishment under section 11 and providing for appeals, etc.*

*30. A perusal of the enquiry report, order of dismissal and the appellate order together with The record would show that petitioner had entered plea of "guilty" at the commencement of the enquiry which has been described as preliminary hearing. Thereafter evidence of the 11 witnesses were recorded by the Enquiry Officer in the presence of the petitioner who did not cross-examine them. After recording the evidence of the witnesses of the disciplinary authority, the petitioner was examined. Petitioner was allowed 15 days time to adduce evidence but he neither produced any witness nor submitted any document. Thereafter the Enquiry Officer came to the conclusion that the charge against the petitioner stood proved and submitted his report.*

*31. It is, thus, clear that the procedure prescribed in rule 27(c) (4) of the CRPF Rules was not followed. As discussed above, entering a plea of "guilty" or "not guilty" at the commencement of the enquiry (referred to as preliminary enquiry) is immaterial. After completion of evidence of the disciplinary authority, petitioner was required to be examined and his statement recorded by the Enquiry Officer. It is evident that in his examination by the Enquiry Officer, petitioner had explained the circumstances leading to him rushing back to the command post which makes it clear that he did not plead guilty. If that be so, petitioner was required to file written statement and also a list of his witnesses. The language employed in the statute is "he shall be required to file a written statement .....". In other words it was the duty of the Enquiry Officer to have informed the petitioner about his right to file a written statement. From the materials on record it is not discernible that the Enquiry Officer had asked the petitioner to file written statement. The procedure does not stop here. In the event of non-filing of written statement, petitioner was again required to be examined by the Enquiry Officer. As has been discussed above, filing of written statement and submission of list of witnesses are independent of each other. Even if written statement is filed but no evidence is adduced, the proceedings shall be closed for order. But in the event of non-filing of written statement, petitioner was required to be examined again by the Enquiry Officer. The mandatory prescription of rule 27(c)(4) has been breached firstly by not calling upon the petitioner to file written statement, secondly by not examining him again and thirdly by equating non-submission of list of witnesses with non-filing of written statement and thereafter closing the proceedings. This departure from the procedure statutorily prescribed is a fundamental flaw striking at the root of the decision making process."*

C. In **Munna Lal** (supra) Hon'ble supreme court has observed and held which is

reproduced herein below:-

*“3. The appellant contended that on that day, he was ill and was taking medicines and this must have caused the smell of alcohol. An inquiry was conducted and the enquiry officer relied on the incomplete report of the doctor who examined the appellant and held that the appellant's case was a confirmed case of intoxication and reliance was also placed on the three witnesses, who were examined in the inquiry. The learned counsel for the appellant contended that there was no medical evidence to prove that the appellant was drunken on that day and he was alcoholic and he was also not taken to Safdarjung Hospital as suggested by the duty doctor on panel at the Airport. The appellant also contended that reliance could not have been placed on the oral evidence given by the witnesses.*

*4. The learned counsel appearing for the respondent submitted that the appellant was found guilty of dereliction of duty previously also and there were other disciplinary proceedings against the conduct of the appellant. But in the instant case it was not proved that the appellant was drunk on the day when he was on duty. Evidence was not satisfactory to prove that he was found with any alcohol and he was also not taken to Safdarjung Hospital as suggested by the first doctor.*

*5. In the absence of positive evidence, we are of the view that the charge levelled against the appellant was not proved satisfactorily. In the absence of sufficient proof, the disciplinary authority should not have imposed such penalty. Therefore, the punishment imposed was illegal and the appellant is entitled to be reinstated in service and he is entitled to get 50% of the back wages for the period he was out of service. The respondents are directed to reinstate the appellant in service forthwith. The appellant's service during this period would be treated for other services benefits such as seniority increment and pension.”*

**37.** On perusal of the above decisions, it is seen that in those cases court found that the procedure prescribed under the rule was not followed as to whether the petitioner was asked to enter a plea of 'guilty' or 'not guilty' at the commencement of the enquiry and the enquiry report also does not disclose that the Enquiry Officer had asked the petitioner to file written statement along with list of such witnesses, which he would rely upon in his defence within a period not less than a fortnight as per requirement of Rule 27 (c) (iv) of the

CRPF Rule 1955. No Presenting Officer was appointed on behalf of the disciplinary authority to present its case in the enquiry. The Enquiry Officer had not asked the petitioner to file written statement. Court found that the mandatory prescription of rule 27(c)(4) was breached firstly by not calling upon the petitioner to file written statement, secondly by not examining him again and thirdly by equating non-submission of list of witnesses with non-filing of written statement and thereafter closing the proceedings. This departure from the procedure statutorily prescribed was held to be a fundamental flaw striking at the root of the decision making process, which is true.

**38.** In **Munna Lal** (Supra), the Hon'ble supreme court found that there was no medical evidence to prove that the appellant was drunken on that day and he was alcoholic and he was also not taken to Hospital as suggested by the duty doctor. Evidence was not satisfactory to prove that he was found with any alcohol and he was also not taken to Hospital as suggested by the first doctor. It has held that in the absence of positive evidence, the charge levelled against the appellant was not proved satisfactorily. In the absence of sufficient proof, the disciplinary authority should not have imposed such penalty. Therefore, the punishment imposed was held illegal.

**39.** Reverting back to present case, the provisions of Rule 27 of CRPF Rules, 1955 has been followed as the petitioner was provided with the memorandum charges consist of two article of charges. The petitioner has been provided adequate opportunity to file written statement, to adduce evidence/witness(s) and also to cross examination. However he has failed to availed as no written statement or representation was filed either on receipt of memorandum of

charges nor on receipt of Inquiry report, cross examination was declined and did not adduce evidence or witness rather admitted the charges. The petitioner pleaded guilty as he has categorically accepted the charges,. Thus, the case laws relied by the learned counsel for the petitioner would not assist the case of the petitioner, hence cannot be pressed into service.

**40.** From the above, it is clear that the charges against the petitioner are not only accepted by the petitioner but are proved which are founded on the evidence on record. This Court finds no palpable error in conduct of the enquiry and the penalty of removal is also not shockingly disproportionate to the proven charges.

**41.** In view of what has been discussed herein above, I am of the considered view that no ground is made out warranting judicial review of the disciplinary proceedings and the consequential impugned order dated 16.01.2016 imposing penalty of removal from service to the petitioner as well as appeal and revisional orders dated 08.07.2016 and 24.02.2017. Thus, no interference is called for.

**42.** Consequently, writ petition stands dismissed being devoid of merit. Cost(s) made easy.

**JUDGE**