

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2235 of 2021

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Karam Jeet, Son of Surya Pal, Resident of Village- Pure Subba Pandey,
Naupur, P.S.- Jamoh, District- Amethi (Uttar Pradesh).

... .. Petitioner/s

Versus

1. The East Central Railway through its General Manager, Hazipur,
2. The Director General, Railway Protection Force, Rail Bhavan, Railway Board, New Delhi.
3. The Principal Chief Security Commissioner, RPSF, Railway Board, New Delhi.
4. The D.I.G.-cum-Chief Security Commissioner, RPSF, Daya Basti, New Delhi.
5. The Deputy Security Commissioner, East Central Railway-cum-Commandant, 11BN/RPSF/Garhara.
6. The Senior Divisional Security Commissioner, Railway Protection Force, East Central Railway, Danapur.
7. The Assistant Commandant I/C, 11BN/RPSF/Garhara.
8. The Inspector A Coy, 11BN/RPSF/GHZ-cum-Inquiry Officer, Railway Protection Force, Garhara.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 3099 of 2021

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Kamlesh Kumar Yadav S/o Shri Ravindra Yadav, R/o Village-Salarpur, P.S.-
Karuda, Ghazipur, District-Ghazipur (Uttar Pradesh)

... .. Petitioner/s

Versus

1. The East Central Railway through its General Manager, Hazipur.
2. The Director General, Railway Protection Force, Rail Bhavan, Railway Board, New Delhi.
3. The Principal Chief Security Commissioner, RPSF, Railway Board, New Delhi.



4. The D.I.G.-Cum-Chief Security Commissioner, RPSF, Daya Basti, New Delhi.
5. The Deputy Security Commissioner, East Central Railway-Cum-Commandant, 11BN/RPSF/Garhara.
6. The Senior Divisional Security Commissioner, Railway Protection Force, East Central Railway, Danapur.
7. The Assistant Commandant I/C, 11BN/RPSF/Garhara
8. The Inspector 'A' Coy, 11BN/RPSF/GHZ-Cum-Inquiry Officer, Railway Protection Force, Garhara.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2235 of 2021)

For the Petitioner/s : Mr. Bindhyachal Singh, Sr. Adv.
Mr. Ram Binod Singh, Adv.

For the UoI : Mr. Bindhyachal Rai, Adv.

(In Civil Writ Jurisdiction Case No. 3099 of 2021)

For the Petitioner/s : Mr. Bindhyachal Singh, Sr. Adv.
Mr. Ram Binod Singh, Adv.

For the UoI : Mr. Bindhyachal Rai, Adv.

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT**

Date : 06-08-2026

Heard Mr. Bindhyachal Singh, learned Senior Advocate, along with Mr. Ram Binod Singh, learned Advocate for the petitioners, and Mr. Bindhyachal Rai, learned Advocate appearing on behalf of the Union of India, in both the cases.

2. Considering that both the writ petitions arise out of identical facts, emanate from the same memorandum of charges, and culminated in the identical punishment of dismissal from service, this Court, with the consent of the parties, heard the matters together and proposes to dispose of the same by this



common order.

3. The petitioners were duly appointed as Constables in the Railway Protection Special Force (RPSF) in the year 2015. At the relevant point of time, they were posted at 'E' Coy, 11BN/RPSF/GHZ (Garhara). It so happened that on 25.02.2018, one Mukesh Chand Tyagi, Assistant Commandant, while on election duty at Mini Secretariat, Mawkyrwat, South West Khasi Hills, Meghalaya, was shot dead by Constable Arjun Deshwal by indiscriminate firing from his service weapon. The said Arjun Deshwal was immediately apprehended and handed over to the local police, whereupon an FIR was instituted against him.

4. The aforesaid incident received widespread attention on various social media platforms, including WhatsApp and Facebook. Several videos, photographs and comments were circulated in support of the said Arjun Deshwal. Allegedly, the circulation of a video clip containing the informal confessional statement of Constable Arjun Deshwal generated emotional disaffection amongst the members of the Force. It is alleged that some members of the Force attempted to garner support for Arjun Deshwal and extended monetary assistance to him through WhatsApp groups, Facebook and other social



media platforms. According to the respondents, such undesirable acts incited gross disaffection amongst the members of the Force, adversely affected discipline and camaraderie, and brought disrepute to the image of the Force, thereby undermining its discipline and organizational culture.

5. The aforesaid incident led to a preliminary enquiry, wherein it was alleged that the petitioner in CWJC No. 2235 of 2021 induced other members of the Force to extend moral and financial support to the accused and himself contributed a sum of Rs.1,000 through the BHIM App from his salary account. Similarly, it was alleged that the petitioner in CWJC No. 3099 of 2021 shared a video clip on his Facebook account requesting his friends to contribute Rs.200 each towards the support of the accused by providing the bank account details into which the contributions were to be deposited.

6. In order to ascertain the involvement of the petitioners, a discreet enquiry was conducted, and the Enquiry Officer submitted his report confirming their alleged involvement. During the enquiry, both the petitioners are stated to have admitted that they had contributed the aforesaid amounts.

7. On the basis of the allegations and the preliminary



enquiry report, separate memorandum of charges dated 10.04.2018, bearing Letter Nos. 1285 and 1286 respectively, were issued under the signature of the Assistant Commandant. The petitioners were charged with having committed serious misconduct by breaching discipline, violating the prescribed code of conduct for members of the Force, encouraging and promoting indiscipline within the Force, and intentionally inciting disaffection amongst its members, in contravention of Section 18 of the Railway Protection Force Act, 1957, read with Section 3 of the Police (Incitement to Disaffection) Act, 1922, and Rule 146 of the Railway Protection Force Rules, 1987. It was further alleged that the conduct of the petitioners amounted to the commission of offences under Section 3 of the Police (Incitement to Disaffection) Act, 1922, and violated Rule 147(i), (ii), (xv), (xxi) and (xxii) of the Railway Protection Force Rules, 1987, rendering them liable for punishment under Section 9 of the Railway Protection Force Act, 1957.

8. During the departmental enquiry, several witnesses were examined and documentary evidence was adduced. Both the petitioners, however, explained that they had become emotional after reading the messages and comments and watching the videos circulated on social media. According to



them, being misguided and without appreciating the consequences of their actions, they transferred the meager amounts in question.

9. The petitioner in CWJC No. 2235 of 2021 further stated that the amount contributed by him was credited back to his account on the very next day. He expressed remorse for his conduct and stated that after his mobile number became viral, he started receiving numerous phone calls and messages, due to which he became frightened and eventually broke his SIM card.

10. The petitioner in CWJC No. 3099 of 2021, in his defence, submitted that acting upon incorrect information circulated in the name of the accused, he deposited the amount and shared the message on his Facebook account, which he subsequently deleted upon realizing his mistake.

11. The Enquiry Officer submitted his report holding that the conduct of the petitioners had the tendency to incite disaffection amongst the members of the Force and accordingly found the charges proved against them.

12. Thereafter, the In-charge Assistant Commandant, vide Letter No. 3021 dated 08.08.2018 and Letter No. 3062 dated 10.08.2018, issued second show-cause notices to the respective petitioners enclosing the enquiry report and



proposing the imposition of a major penalty.

13. In response, the petitioners submitted their respective replies reiterating the explanation furnished during the enquiry. They stated that, having rendered only a short period of service, they lacked the maturity to properly appreciate the consequences of their conduct and, therefore, prayed for mercy. They further categorically asserted that throughout their service they had always maintained discipline, respected the ethos of the Force, and endeavoured to promote harmony and camaraderie amongst its members. They also stated that they neither knew Arjun Deshwal personally nor had any concern with him, and that whatever they had done was merely under an emotional impulse and on account of being misled by the material circulated on social media.

14. The Disciplinary Authority, vide Memo Nos. 138 and 139, both dated 11.01.2019, imposed upon the petitioners the penalty of removal from service. The appeals preferred by the petitioners were also rejected vide orders dated 20.03.2019, which were communicated to them through Letter Nos. 896 and 897 issued by the Adjutant on 30.03.2019. Thereafter, the petitioners preferred revision petitions before the Principal Chief Security Commissioner, Railway Protection Special



Force, which too came to be rejected vide orders dated 28.06.2019. The mercy petitions preferred before the Director General, Railway Protection Force, were also dismissed vide orders dated 24.08.2020 and 26.09.2020, respectively.

15. Aggrieved by the memorandum of charges, the enquiry report, the orders of removal from service, and the orders passed in appeal, revision and mercy petition, the petitioners have invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India, praying for issuance of an appropriate writ, particularly in the nature of certiorari, for quashing the same.

16. Mr. Bindhyachal Singh, learned Senior Advocate appearing on behalf of the petitioners, while assailing the impugned orders, primarily contended that the petitioners were appointed to the post of Constable by the Deputy Security Commissioner-cum-Commandant, whereas the memorandum of charges was issued by the In-charge Assistant Commandant, who was admittedly subordinate to the appointing authority. It is, therefore, submitted that the memorandum of charges itself is wholly without jurisdiction, having been issued by an authority not competent to initiate the disciplinary proceedings.

17. Learned Senior Advocate further submitted that,



notwithstanding the aforesaid jurisdictional defect, the punishment of removal from service was ultimately imposed by the Deputy Security Commissioner. Significantly, while passing the order of punishment, the Deputy Security Commissioner himself recorded that the In-charge Assistant Commandant, being the disciplinary authority, was not competent to impose the major penalty of removal from service and, therefore, referred the matter to the competent authority in terms of the provisions of the Railway Protection Force Rules, 1987. According to the learned Senior Advocate, this itself clearly establishes that the In-charge Assistant Commandant lacked the requisite jurisdiction even to initiate the disciplinary proceedings by issuing the memorandum of charges. It is further contended that once the disciplinary proceedings had been initiated by the In-charge Assistant Commandant, who was competent only to impose minor penalties, it necessarily follows that the proceedings were initiated only for the purpose of awarding a minor punishment. In such circumstances, after submission of the enquiry report, the matter could not have been referred to the appointing authority for the imposition of a major penalty without first altering or amending the original memorandum of charges in accordance with law.



18. Learned Senior Advocate next submitted that a bare reading of the statement of imputations of misconduct would demonstrate that the petitioners had not committed any of the offences alleged under the provisions of the Railway Protection Force Act, 1957 or the Railway Protection Force Rules, 1987. At best, the petitioners themselves were emotionally swayed by the material circulated on social media and contributed a meager amount towards the family of the accused. Mere transfer of a nominal amount into the account of a person, without any statement, message or conduct inciting disaffection or encouraging indiscipline amongst the members of the Force, cannot by any stretch of imagination be construed as an act of inducing others against the Government establishment or the Force or as constituting a breach of discipline. It is further argued that, for the very same incident, several other Constables posted at different places were also subjected to departmental proceedings. Three such Constables, namely, Devendra Singh, Yogendra Singh and Vinish Kumar, were initially awarded the punishment of dismissal from service. However, in their respective appeals, the Appellate Authority modified the punishment to a much lesser penalty, as a consequence whereof they were reinstated in service. It is,



therefore, submitted that the petitioners have been subjected to hostile discrimination despite standing on an identical footing, thereby violating the mandate of Article 14 of the Constitution of India.

19. It has also been brought to the notice of this Court that the Railway Protection Force framed specific guidelines regulating the use of social media by RPF personnel only on 11.08.2020, whereby members of the Force were prohibited from circulating or exchanging objectionable or provocative messages through social media platforms. Admittedly, no such guidelines or circular were in existence on the date of the alleged misconduct when the petitioners, according to the respondents themselves, had merely been swayed by the provocative material circulating on social media.

20. Referring to the statutory provisions relied upon in the memorandum of charges, learned Senior Advocate submitted that none of the materials brought on record constitutes the ingredients of the offences alleged against the petitioners. It is, therefore, contended that the entire disciplinary proceedings, commencing from the issuance of the memorandum of charges and culminating in the orders of removal from service, as affirmed in appeal, revision and mercy



petition, are wholly unsustainable in law, arbitrary, disproportionate to the alleged misconduct, and violative of Articles 14 and 21 of the Constitution of India.

21. *Per contra*, Mr. Bindhyachal Rai, learned Advocate appearing on behalf of the Union of India, refuting the submissions advanced by the learned Senior Advocate for the petitioners, contended that the petitioners had intentionally induced other members of the Force to extend moral as well as financial support to Constable Arjun Deshwal, who had shot dead the Assistant Commandant on 25.02.2018, by using various social media platforms with a view to generate sympathy for the accused. It is submitted that the petitioners not only transferred money but also posted and circulated objectionable and provocative messages, thereby encouraging, supporting and promoting indiscipline within the Force in contravention of the provisions of the Railway Protection Force Act, 1957 and the Railway Protection Force Rules, 1987, as specifically referred to in the memorandum of charges.

22. Learned Advocate further submitted that, during the departmental enquiry, the petitioners themselves admitted their misconduct. Upon consideration of the enquiry report and having regard to the nature and gravity of the charges proved,



the disciplinary authority found that the punishment warranted was beyond his competence to impose and, accordingly, referred the matter to the competent higher authority. Since the misconduct was of such gravity as to warrant the penalty of removal from service, the In-charge Assistant Commandant referred the matter to the Deputy Security Commissioner, who, upon being satisfied with the findings recorded in the enquiry report, imposed the punishment of removal from service. The orders passed by the Appellate Authority, the Revisional Authority and the authority deciding the mercy petitions also affirmed the said punishment, finding no merit in the petitioners' challenge. It is further argued that, in connection with the same incident, as many as twenty-two personnel were either removed or dismissed from service. The Railway Protection Special Force, being an armed Force of the Union, is required to maintain the highest standards of discipline, which constitute the very foundation of its functioning. The Department, therefore, viewed the misconduct with utmost seriousness and imposed punishment commensurate with the gravity of the charges established against the delinquent personnel.

23. Learned Advocate for the Union of India, fairly submitted that, although different disciplinary authorities



dealing with similar allegations may have taken different views in individual cases, such decisions are rendered in the exercise of their independent discretion depending upon the facts and circumstances of each case. One disciplinary authority is not bound by the decision taken by another, as even a slight variation in the nature of the charges or the surrounding circumstances may justify a different conclusion. It is, however, emphasized that in none of the connected cases, any delinquent employee was exonerated of the charges.

24. In support of his submissions and while explaining the limited scope of judicial review in matters of departmental proceedings, learned Advocate placed reliance upon the judgment of the Hon'ble Supreme Court in ***Union of India & Others v. Ex-Constable Ram Karan, Civil Appeal No. 6723 of 2021***. Referring to the said decision, it is contended that the Supreme Court has cautioned that, particularly in matters concerning members of disciplined forces, the High Courts should exercise great restraint while interfering with the quantum of punishment. It is further submitted that substitution of the punishment imposed by the disciplinary authority merely on the ground of proportionality has been held to be impermissible, unless the punishment is found to be shockingly



disproportionate or suffers from manifest arbitrariness.

25. This Court has heard the learned Senior Advocate/Advocate appearing for the respective parties at length and has anxiously considered the materials available on record.

26. The foundational facts giving rise to the present writ petitions are substantially undisputed and, therefore, do not require reiteration. The principal questions which arise for consideration and adjudication in the present case are as follows:

(i) Whether disciplinary proceedings initiated by an authority competent to impose only a minor penalty can, after completion of the enquiry, be referred to the higher authority solely for the purpose of imposing a major penalty?

(ii) Whether a delinquent employee is entitled to claim parity in the matter of punishment with other similarly situated employees whose punishment has been modified or reduced by the Appellate Authority?

(iii) Whether, and to what extent, this Court, in exercise of its power of judicial review under Article 226 of the Constitution of India, can interfere with the proportionality of the punishment imposed in relation to the misconduct proved



against the delinquent employee?

27. This Court shall now proceed to consider the aforesaid issues one by one in the light of the pleadings of the parties, the materials available on record, the relevant statutory provisions, and the precedents governing the field.

Re: Issue No. (i)

(i) Whether disciplinary proceedings initiated by an authority competent to impose only a minor penalty can, after completion of the enquiry, be referred to the higher authority solely for the purpose of imposing a major penalty?

28. It is not in dispute that a memorandum of charges may be issued either by the appointing authority, the disciplinary authority or any other authority duly empowered in that behalf, if the rules applicable permit to do so. In the present case, the petitioners were admittedly appointed to the post of Constable by the Deputy Security Commissioner-cum-Commandant, whereas the memorandum of charges was issued by the In-charge Assistant Commandant, who was the disciplinary authority.

28.(i) Rule 152.2 read with Schedule III of the Railway Protection Force Rules, 1987, expressly provides that a disciplinary authority competent to impose any of the minor



penalties may institute disciplinary proceedings for the imposition of any of the major penalties, notwithstanding the fact that such disciplinary authority is itself not competent to impose the proposed major penalty.

28.(ii) A plain reading of Schedule III of the Railway Protection Force Rules, 1987 reveals that, although the In-charge Assistant Commandant is competent to initiate disciplinary proceedings, he is not competent to impose the major penalties of removal or dismissal from service.

28.(iii) There can be no dispute that the initiation of the departmental proceedings by the In-charge Assistant Commandant was not without jurisdiction merely because he lacked the authority to impose a major penalty. However, the question which falls for consideration is whether, after completion of the enquiry and after the issuance of the second show-cause notice by the said authority, the matter could thereafter be referred to the higher authority for the first time for the purpose of imposing a major penalty without affording any further opportunity of hearing to the delinquent employee, on the selfsame charges.

28.(iv) The records reveal that, upon receipt of the enquiry report, the In-charge Assistant Commandant himself



issued the second show-cause notices to the petitioners. The subject of the notices although described the proceedings as those arising out of a major penalty enquiry conducted against the petitioners. In response thereto, the petitioners submitted their respective replies before the very same authority. It further appears that, after considering the replies so submitted, the In-charge Assistant Commandant came to the conclusion that the punishment warranted by the proved misconduct was beyond his competence and, accordingly, referred the matter to the Deputy Security Commissioner for the imposition of an appropriate major penalty.

28.(v) Undoubtedly, the statutory rules permit a disciplinary authority, though not competent to impose a major penalty, to initiate and conduct disciplinary proceedings. Nevertheless, once the enquiry stood concluded, the enquiry report was furnished, and the second show-cause notice was issued by the disciplinary authority himself, the petitioners legitimately proceeded on the footing that the proceedings were being concluded by the said authority. If, thereafter, the disciplinary authority formed an opinion that the misconduct established warranted a major penalty beyond his competence, the requirements of fairness and the principles of natural justice



demanded that the competent authority, before imposing such major penalty, ought to have issued a fresh notice to the delinquent employees indicating that the matter had been referred to him for consideration of a major penalty and affording them an effective opportunity to make their representation on the proposed punishment.

28.(vi) No such opportunity was admittedly afforded in the present case. The petitioners were never put on notice that, after the conclusion of the enquiry and consideration of their replies to the second show-cause notices, the matter would be placed before a higher authority for the imposition of a major penalty. Consequently, the petitioners were deprived of an effective opportunity to represent before the authority who ultimately decided to impose the punishment of removal from service.

28.(vii) In the considered opinion of this Court, such a course of action offends the principles of natural justice and fair play. The petitioners were effectively taken by surprise at the final stage of the proceedings, without being afforded an opportunity of hearing before the competent authority on the question of the proposed major penalty. The procedure adopted, therefore, suffers from the vice of arbitrariness and cannot be



sustained in law. Issue No. (i) is, accordingly, answered in the aforesaid terms.

Re: Issue No. (ii)

(ii) Whether a delinquent employee is entitled to claim parity in the matter of punishment with other similarly situated employees whose punishment has been modified or reduced by the Appellate Authority?

29. To answer the aforesaid issue, there is no dispute with regard to the settled legal position that where two sets of delinquent employees stand on an identical footing, imposition of different punishments without any distinguishing feature would be arbitrary and discriminatory, thereby offending the doctrine of equality enshrined under Article 14 of the Constitution of India.

29.(i) ***In Rajendra Yadav v. State of Madhya Pradesh & Ors., (2013) 3 SCC 73***, the Hon'ble Supreme Court held that the doctrine of equality applies equally to persons who have been found guilty in departmental proceedings. It was observed that even delinquent employees are entitled to equal treatment in the matter of punishment if they are able to establish that they were similarly situated and that a discriminatory punishment has been imposed upon them. The Court further held that parity



amongst co-delinquents ought to be maintained while imposing punishment and that the disciplinary authority cannot award a disproportionately severe punishment to one delinquent while imposing a lesser punishment upon another who was involved in the very same incident and whose role was identical or comparable.

29.(ii) The Court, however, clarified that where there exists a material distinction in the role played by the delinquents, the nature of misconduct, or any other relevant circumstance, different punishments may be justified. The quantum of punishment is primarily within the domain of the disciplinary and appellate authorities, provided that the punishment remains commensurate with the gravity of the misconduct and is not shockingly disproportionate.

29.(iii) Reference may also be made to *Anand Regional Co-operative Oilseed Growers' Union Ltd. v. Shaileshkumar Harshadbhai Shah, (2006) 6 SCC 548*, wherein one workman was dismissed from service while other similarly situated workmen, facing identical allegations, were permitted to avail the benefits of the Voluntary Retirement Scheme. Holding such differential treatment to be unjustified, the Hon'ble Supreme Court directed that the dismissed



employee be extended the same benefit which had been granted to the other employees.

29.(iv) This Court also takes note of the decision of the Hon'ble Supreme Court in ***Obettee (P) Ltd. v. Mohd. Shafiq Khan, (2005) 8 SCC 46***, wherein it was held that even where the nature of misconduct is identical, a distinction in punishment may be justified if one set of employees voluntarily admits the charges, expresses remorse and seeks leniency, while another set contests the charges and compels the employer to conduct a full-fledged enquiry. In such circumstances, the latter category cannot subsequently claim that the punishment imposed upon them must necessarily be identical to that imposed upon those who admitted their guilt and sought mercy at the earliest opportunity.

29.(v) Keeping in view the aforesaid legal principles and examining the facts of the present case, this Court finds that the substance of the charges levelled against the petitioners and the other delinquent Constables was substantially identical. All of them were alleged to have posted, forwarded, shared or commented upon objectionable and provocative messages, photographs or videos relating to the incident involving Constable Arjun Deshwal, thereby allegedly promoting



indiscipline within the Force and creating sympathy for the accused through social media platforms. They were subjected to departmental proceedings arising out of the same incident and were initially awarded similar punishments.

29.(vi) It has been brought on record that, in the case of certain other Constables facing substantially similar charges, the Appellate Authority modified the punishment of dismissal and substituted it with a lesser penalty, resulting in their reinstatement in service. The existence of such orders was also brought to the notice of the Appellate Authority, the Revisional Authority and even the authority considering the mercy petitions in the present case. However, the said aspect was neither considered nor distinguished on any rational basis.

29.(vii) This Court is of the considered opinion that where co-delinquents are similarly situated and the allegations against them arise out of the same transaction with no material distinction in their respective roles, the principle of parity cannot be ignored while determining the appropriate punishment. The constitutional guarantee of equality before law extends even to persons found guilty in disciplinary proceedings, and any unjustified discrimination in the matter of punishment would render the decision vulnerable to challenge



under Article 14 of the Constitution of India.

29.(viii) Accordingly, this Court holds that a delinquent employee is entitled to seek parity with similarly situated co-delinquents, including in respect of the punishment modified or imposed by the Appellate Authority, provided there is no distinguishing feature justifying differential treatment. Issue No. (ii) is answered accordingly.

Re: Issue No. (iii)

(iii) Whether, and to what extent, this Court, in exercise of its power of judicial review under Article 226 of the Constitution of India, can interfere with the proportionality of the punishment imposed in relation to the misconduct proved against the delinquent employee?

30. The aforesaid issue is no longer *res integra*. It is well settled that the quantum of punishment ordinarily falls within the exclusive domain of the disciplinary authority and the scope of judicial review in such matters is limited. The High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, does not sit as an appellate authority over the decision of the disciplinary authority to re-appreciate the evidence or to substitute its own opinion regarding the appropriate punishment.



30.(i) At the same time, it is equally well settled that the power of judicial review extends to examining whether the punishment imposed is so disproportionate to the gravity of the misconduct proved as to shock the conscience of the Court. If the punishment is found to be arbitrary, irrational, grossly excessive or wholly disproportionate to the nature of the misconduct, the constitutional courts are not powerless and may interfere in order to prevent manifest injustice.

30.(ii) This Court considers it apposite to recapitulate the settled principles governing judicial review over the quantum of punishment in disciplinary matters. In ***Ranjit Thakur v. Union of India, (1987) 4 SCC 611***, the Hon'ble Supreme Court held that while the choice of punishment ordinarily falls within the exclusive domain of the disciplinary authority, such punishment is nevertheless amenable to judicial review where it is so disproportionate to the gravity of the misconduct as to shock the conscience of the Court. The doctrine of proportionality, it was observed, is an integral part of judicial review, and the sentence has to suit not merely the offence but also the offender. The said principle has been consistently reiterated in ***B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749***, ***Om Kumar v. Union of India, (2001) 2***



SCC 386, and more recently in *Union of India v. Dalbir Singh, (2021) 11 SCC 321*, wherein the Hon'ble Supreme Court reaffirmed that although constitutional courts do not ordinarily substitute their own opinion on the quantum of punishment, interference is warranted where the punishment is arbitrary, irrational, discriminatory or shockingly disproportionate to the misconduct proved.

30.(iii) Applying the aforesaid principles to the facts of the present case, this Court finds that the punishment of dismissal from service imposed upon the petitioners cannot withstand the test of proportionality. The petitioners were young Constables who had rendered only a short period of service. The materials available on record disclose that they merely contributed a nominal amount after being emotionally influenced by messages and videos circulated on social media. There is neither any allegation nor any finding that the petitioners participated in any act of violence, instigated mutiny or indiscipline, incited rebellion against the Force, refused to obey lawful commands, or obstructed the discharge of official duties. On the contrary, the record further reveals that during the departmental proceedings the petitioners candidly admitted their lapse, expressed remorse, and sought mercy from the



disciplinary authorities.

30.(iv) What assumes greater significance is the admitted position that, in respect of several other Constables arising out of the very same incident and charged with substantially identical allegations, the Appellate Authority considered it appropriate to modify the punishment of dismissal into a lesser penalty, thereby permitting their reinstatement in service. As already discussed while answering Issue No. (ii), although the principle of equality cannot be invoked to perpetuate an illegality, parity in the matter of punishment assumes considerable relevance where the misconduct, surrounding circumstances and degree of culpability are substantially similar. The respondents have failed to disclose any distinguishing feature justifying the imposition of the extreme penalty of dismissal exclusively upon the present petitioners.

30.(v) Having regard to the totality of the facts and circumstances, the nature of the misconduct proved, the conduct of the petitioners during the enquiry, the absence of any allegation of active participation in the principal offence, and the differential treatment accorded to similarly situated co-delinquents, this Court is of the considered opinion that the



punishment of removal from service is grossly disproportionate to the misconduct established against the petitioners and shocks the conscience of this Court.

30.(vi) Accordingly, this Court holds that the impugned punishment warrants interference in exercise of the power of judicial review under Article 226 of the Constitution of India. Issue No. (iii) is answered accordingly.

31. Having answered the issues framed hereinabove, this Court is of the considered opinion that the departmental proceedings culminating in the orders of removal from service suffer from serious legal infirmities.

32. As discussed in the preceding paragraphs, apart from the procedural irregularity in the manner in which the disciplinary proceedings culminated in the imposition of a major penalty, the Appellate Authority also failed to consider that other similarly situated delinquent Constables, who were proceeded against on identical allegations arising out of the very same incident, were ultimately extended the benefit of a lesser punishment by the Appellate Authority. The claim of parity raised by the petitioners, therefore, deserved due consideration but was ignored by the departmental authorities at every stage.

33. This Court is also of the considered view that the



punishment of removal from service imposed upon the petitioners is disproportionate to the misconduct established against them. The petitioners admittedly contributed only a meager amount after being emotionally swayed by the material circulated on social media. Although such conduct undoubtedly amounted to misconduct warranting disciplinary action, the extreme penalty of removal from service, particularly when similarly situated co-delinquents were ultimately awarded lesser punishment, cannot be sustained.

34. Ordinarily, where the Court finds procedural infirmities in disciplinary proceedings, the appropriate course would be to set aside the impugned orders and remit the matter to the competent authority for fresh consideration. However, the facts of the present case persuade this Court not to adopt such a course.

35. The petitioners have remained out of service for a considerable period. Their removal from service dates back to 11.01.2019 and the present writ petitions have remained pending before this Court since the year 2021. During the intervening period, the punishment awarded to other similarly situated co-delinquents had already been modified by the Appellate Authority in the year 2019 itself. At this distant point of time,



remanding the matter for a fresh decision would only prolong the litigation and cause further prejudice to the petitioners without serving any useful purpose.

36. Accordingly, the orders of removal from service contained in Memo Nos. 138 and 139, both dated 11.01.2019, together with the orders passed by the Appellate Authority, the Revisional Authority and the authority rejecting the mercy petitions, are hereby set aside.

37. The respondents are directed to reinstate the petitioners in service forthwith. However, having regard to the admitted misconduct of the petitioners and the necessity of maintaining discipline in an armed Force of the Union, this Court considers it appropriate that the petitioners shall be visited with the same minor penalty as was ultimately imposed upon the similarly situated co-delinquents, namely Devendra Singh, Yogendra Singh and Vinish Kumar, whose appellate orders have been brought on record as Annexure-13 series. The petitioners shall also be treated alike co-delinquents in extending all the consequential benefits, which have been approved to them. Such a course would not only meet the ends of justice but would also ensure parity and uniformity in the matter of punishment amongst similarly situated members of the disciplined Force.



38. Accordingly, both the writ petitions stand allowed in the aforesaid terms.

39. There shall, however, be no order as to cost(s)

40. Pending application(s), if any, shall also stands disposed of.

(Harish Kumar, J)

rohit/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	06-08-2026
Transmission Date	

