

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA 23103 of 2015

With

CAN 1 of 2022

Amresh Kumar

Versus

Union of India & Ors.

For the Petitioner : Mr. Rabindranath Bag, Sr. Adv.
Mr. Piyas Chowdhury, Adv.
Ms. Nazni Khatun, Adv.
Mr. Swagata Saha, Adv.

For the Respondents : Mr. Debapriya Gupta, Adv.
Mr. Moni Shankar Sengupta, Adv.

Heard on : 23.07.2026

Judgment on : 15.09.2026

Uploaded on : 15.09.2026

Ajay Kumar Gupta, J.:-

1. The petitioner prays for a direction, *inter alia*, in the nature of mandamus for quashing and/or setting aside of the impugned order No. 3325 dated 28.09.2013 passed by Group Commander, Guwahati, thereby penalty was imposed i.e. "Compulsory retirement from service with eligible pensionary benefits with immediate effect" and further to reinstate the petitioner in service with applicable back salaries along with other consequential reliefs in this instant writ petition.
2. The petitioner was enrolled in the Central Industrial Security Force (in short, 'CISF') on 04.07.1994. During his tenure of service, the petitioner had received ten rewards for his good performance.
3. The origin of the present disciplinary proceedings lies in an alleged incident dated 04.02.2013 at around 20.50 hrs., the petitioner, who was detained at the WTP Post for night ("C") shift duty commencing at 21.00 hrs., got into a quarrel with Constable B. Shekhar, who had just completed his "A" shift duty. The altercation, arising out of a personal dispute concerning their previous place of posting, escalated into a physical scuffle, in the course of which B. Shekhar sustained a fracture to his ring finger. It was alleged that B. Shekhar first picked up a wood-cutter (DAB), whereupon the petitioner picked up his service rifle. The incident was recorded in two General Diary entries-

G.D. Entry No. 797 dated at the WTP Post (21.30 hrs.) and G.D. Entry No. 178 at the CISF Control Room (21.40 hrs.). Accordingly, both the enrolled members of the Force, i.e., the petitioner as well as Constable B. Shekhar, were charged with undisciplined activities and further disciplinary action was recommended.

4. Accordingly, a charge memo no. V-150 Maj-10/GHG/L&R/2013-2133 dated 01.07.2013 was sent to the petitioner along with a copy thereof to Deputy Commandant CISF Unit, IOC, Guwahati, annexing the proposed names of witnesses and other relevant documents. The following charges were framed: -

“Charge – I

On 04.06.2013 the Constable Amresh Kumar the petitioner was detained a WTP for night shift duty from 21.00 hrs. till 5.00 hrs. on 05.06.2013. In the barrack on said date i.e. 04.06.2013 at about 20.00 hrs. the petitioner got indulged in quarrel with another constable B. Shekhar (now removed from service) as such the said act of petitioner manifests misconduct, gross negligence towards duty flouting and indiscipline which shows indiscipline and the same is not befitting for a member of a disciplined force.

Charge – II

The Constable Amresh Kumar (the Petitioner) was enrolled on 04.07.1994 and according to his service record he has already been awarded 12 punishments but he has failed to correct his conduct and he also failed to bring in positive amendment in his in disciplined conducts.”

5. The Petitioner denied the charges, following which a departmental enquiry was ordered. By order dated 19.07.2013, Sh. D.K. Nath, AC,

and SI (Exe) Akhilesh Kumar, both of CISF Unit, IOC Guwahati, were appointed as Enquiry Officer and Presenting Officer respectively. The Enquiry Officer recorded the statements of six prosecution witnesses, and upon receipt of the Presenting Officer's brief dated 09.08.2013, submitted findings dated 21.08.2013 holding both articles of charge proved against the petitioner. The Enquiry Officer came to the findings that both Constable B. Sekhar and Constable Amaresh Kumar were found guilty of quarrelling and entering into altercation with each other and the charges of quarrelling levelled against them is established beyond doubt.

6. Subsequently, after considering the enquiry report and entire proceedings, the Disciplinary Authority by order no. V-15014/Maj-10/GHG/L&R/2013-3325 dated 28.09.2013 imposed major penalty of "Compulsory retirement from service with eligible pensionary benefits with immediate effect" under Rule 34 of the CISF Rules, 2001 after accepting the finding of the enquiry, subsequently followed by a Corrigendum No. V-15014/Maj-10/GHG/L&R/2013-3720 dated 29.10.2013.
7. Feeling aggrieved with the said order, the petitioner preferred a statutory appeal dated 09.10.2013 before the Appellate Authority, the DIG, CISF, North Eastern Zone, which came to be dismissed by order

dated 28.02.2014 (No. V-11014/Appeal-29/AK/Adm-II/NEZ/2013/1981).

- 8.** The petitioner, thereafter, invoked Revisional remedy under Rule 54 of the CISF Rules, 2001, before the Inspector General, CISF, NSE/NEZ. This revision too was rejected by order dated 27.07.2014.
- 9.** Being aggrieved by the concurrent orders of the Disciplinary, Appellate, and Revisional Authorities, the petitioner has approached this Court in the instant writ petition seeking aforesaid relief thereof.
- 10.** Learned senior counsel, Mr. Bag, appearing on behalf of the petitioner, submitted that the Petitioner was innocent and falsely implicated in the present case; however, the disciplinary authority found him guilty without any reasonable material and explanation. The Petitioner was compulsorily retired based on the alleged quarrel, identifying the incident as gross misconduct; however, the term 'Misconduct' has not been specifically defined in the CISF Rules.
- 11.** The Petitioner was found guilty and punished solely based on hearsay evidence. No direct evidence was produced by the prosecution against the Petitioner. The whole case is based on hearsay, although hearsay evidence has no value in the eye of the law.
- 12.** It was further submitted that the eyewitnesses (P.Ws. 3 and 4) did not specify the role of the petitioner. Neither the injured person nor

the medical document, like injury report was produced in the present case to substantiate the prosecution case. Furthermore, even for the sake of argument, if it is assumed that there was a quarrel between the two employees, the same would be beyond the official working hours.

- 13.** It was further submitted that the petitioner cannot be punished on the basis of previous antecedents; otherwise, it would be double jeopardy and a violation of Article 20(2) of the Constitution of India. He has further placed reliance on the following judgments: -

*i. State of Assam v. J.N. Roy Biswas*¹;

*ii. T.P. Gopalakrishnan v. State of Kerala*²;

*iii. Chennai Metropolitan Water Supply and Sewerage Board and Ors. v. T.T. Murali Babu*³.

- 14.** Learned Counsel has further relied upon the judgment passed in the case of *Kuldeep Singh v. The Commissioner of Police and Ors.*⁴ in support of his argument that if the finding of guilt is based on no evidence, it would be a perverse finding and would be amenable to judicial scrutiny. Further, relying upon *Rajinder Kumar Kindra v.*

¹ (1976) 1 SCC 234

² (2022) 14 SCC 478

³ (2014) 4 SCC 108

⁴ (1999) 2 SCC 10

Delhi Administration⁵, it was submitted that where a finding of misconduct is based on no legal evidence, which is wholly incapable of supporting such finding, the conclusion would be one which no reasonable person could have arrived at. Such a finding is liable to be characterised as perverse and set aside in law.

15. Therefore, the punishment imposed upon the petitioner is highly disproportionate. It is a major punishment. The same is liable to be set aside.
16. Learned counsel, Mr. Gupta, on the other hand, appearing on behalf of the Respondents, submitted in response to the judgment relied upon by the Petitioner, that a relief granted in a specific case cannot be treated as precedent.
17. Learned Counsel further placed reliance on a decision of the Hon'ble Supreme Court in the case of **Union of India and Ors. v. Subrata Nath**⁶, wherein it was held that a person's past conduct cannot be taken into consideration while awarding penalty, subject to the condition that the same is made part of a separate charge, as was done in the instant case.
18. It was further submitted that the petitioner's conduct was against the Force. He was punished earlier on 12 occasions; however, he did not

⁵ (1984) 4 SCC 635

⁶ (2022) 18 SCR 605

rectify himself and continued his behaviour despite cautions. His conduct in the incident and previous antecedents became detrimental to the Force.

19. Learned Counsel has relied upon the following decisions in support of his submissions:-

- i. ***Union of India v. R. Kasivelu***⁷;
- ii. ***Union of India v. Const. Sunil Kumar***⁸;
- iii. ***Union of India v. Bihamber Das Dogra***⁹;
- iv. ***CISF v. Abrar Ali***¹⁰;
- v. ***State of Mysore v. K. Manche Gowda***¹¹;
- vi. ***Muzaffar Husain v. State of UP***¹²;
- vii. ***B.C. Chaturvedi v. Union of India***¹³;
- viii. ***Ram Kishan v. Union of India***¹⁴.

20. Learned counsel further refuted the contention of the petitioner that the prosecution failed to prove the case against him. The prosecution witnesses clearly saw the incident with their own eyes and narrated the same at the time of their examination. During cross-examination,

⁷ ***MAT 2290 of 2024***

⁸ ***(2023) 1 SCR 961***

⁹ ***(2009) 9 SCR 828***

¹⁰ ***(2017) 4 SCC 507***

¹¹ ***(1964) 4 SCR 540***

¹² ***2022 SCC OnLine SC 567***

¹³ ***(1995) 6 SCC 749***

¹⁴ ***(1995) 6 SCC 157***

the petitioner failed to shake their evidence and rather admitted the facts of the quarrel. The case of the petitioner was affirmed by the appellate authority as well as on revision. Therefore, the writ petition is liable to be dismissed with costs.

- 21.** Having heard the submissions of the learned counsels appearing on behalf of the respective parties and having gone through the materials on records, this court finds that the petitioner joined in the Central Industrial Security Force (in short, 'CISF') on 04.07.1994. During his tenure of service, admittedly, he was punished on 12 occasions for ill behaviour and illegal deeds.
- 22.** The petitioner was awarded 12 punishments in his whole service tenure. A charge has been framed that the Petitioner was enrolled on 04.07.1994. According to his service record, he failed to correct his conduct and bring about a positive change in his conduct. His last conduct was about the quarrel with Constable B. Shekhar, who had just completed his "A" shift duty. The altercation, arising out of a personal dispute concerning their previous place of posting, escalated into a physical scuffle in the course of which B. Shekhar sustained a fracture to his ring finger. Prosecution fails to prove the fact that B. Shekhar sustained a fracture to his ring finger either by oral or medical documents. However, the prosecution proved the quarrel

without any doubt together with charge no.1. It is undisputed facts that quarrel took place with B. Shekhar on the date, time and place as mentioned by the prosecution witnesses and ultimately awarded penalty i.e. “Compulsory retirement from service with eligible pensionary benefits with immediate effect” under Rule 34 of the CISF Rules, 2001

- 23.** The petitioner was unable to succeed in the appeal filed after feeling aggrieved by the said order of compulsory retirement. The petitioner preferred a statutory appeal on 09.10.2013 before the Appellate Authority, the DIG, CISF, North Eastern Zone, but the same was dismissed by order dated 28.02.2014 (No. V-11014/Appeal-29/AK/Adm-II/NEZ/2013/1981). The petitioner, thereafter, invoked Revisional remedy under Rule 54 of the CISF Rules, 2001, before the Inspector General, CISF, NSE/NEZ. The revision too was rejected by order dated 27.07.2014.
- 24.** Considering the overall facts of the case and the arguments advanced by the respective parties, the issue that requires for determination is whether the Authorities wrongfully inflicted the punishment of compulsory retirement on the Petitioner, having taken into consideration his past conduct while inquiring into the alleged incident?

- 25.** It is well settled that the writ court does not sit in appeal over the findings of a domestic enquiry, nor does it reappreciate evidence, as an appellate forum would. Interference is warranted only where the enquiry suffers from a breach of natural justice, or where the finding of guilt rests on no evidence at all, rendering it perverse. No procedural irregularity was found in the departmental proceedings, and furthermore the principles of natural justice were duly observed. In the present case, there is no dispute regarding a quarrel with Constable B. Shekhar, who had just completed his "A" shift duty. The altercation, arising out of a personal dispute concerning their previous place of posting, escalated into a physical scuffle. B. Shekhar first picked up a wood-cutter (DAB), and the petitioner also picked up his service rifle. This type of quarrel is unexpected from a cadre of the Central Industrial Security Force (CISF) after all it is one of the disciplined Forces of India.
- 26.** On the question of previous punishments being taken into account, learned senior counsel for the petitioner has argued that reliance on antecedent conduct amounts to double jeopardy under Article 20(2) of the Constitution of India. This contention does not survive scrutiny. Article 20(2) protects a person from being "prosecuted and punished" more than once "for the same offence." The twelve prior

punishments imposed on the petitioner were not sought to be re-punished in the present proceeding; rather, they were incorporated as Charge No. II, framed and put to the petitioner as part of the very charge-sheet dated 01.07.2013, to which the petitioner was called upon to respond and did respond. The Disciplinary Authority did not resurrect closed disciplinary matters to inflict a fresh, independent penalty for those past acts; it considered the petitioner's continued and unremedied pattern of indiscipline as a circumstance material to assessing the gravity of the present misconduct and the appropriate quantum of punishment.

- 27.** On the record placed before this Court, the Petitioner's record of twelve prior punishments was not introduced for the first time at the penalty stage; it formed part of the article of charge itself, the charge-sheet expressly averring that the Petitioner awarded 12 punishments but he has failed to correct his conduct and he also failed to bring in positive amendment in him in disciplined conducts. This distinguishes the present case from the line of authority the Petitioner would otherwise invoke, and brings it squarely within the ratio of ***Subrata Nath (supra)***. In that case, the Hon'ble Supreme Court held that a Disciplinary Authority "could not be expected to wear blinkers" in respect of a delinquent employee's past conduct

while imposing penalty, precisely because that past conduct had been made part of a specific, separate charge, thereby affording the delinquent notice and opportunity to meet it, rather than being invoked for the first time after the enquiry concluded.

- 28.** The Respondents' submission that a relief granted on the facts of a particular case cannot be elevated to a precedent independent of its ratio is well founded. It is the principle in ***Subrata Nath (Supra)***, that past conduct may permissibly inform the penalty where it is charged, not merely invoked, that governs here, not the bare outcome of that case.
- 29.** On this footing, the Court is unable to accept that the reliance placed by the Disciplinary Authority on the Petitioner's past conduct was impermissible. The vice that would ordinarily attend such reliance is the absence of notice to the delinquent that his record would be weighed against him, which is absent, since the past conduct was itself made part of the article of charge and was, therefore, squarely before the Petitioner from the inception of the proceedings, affording him full opportunity to respond to it.
- 30.** Accordingly, on the point of determination, this Court finds that the Authorities did not act in excess of, or contrary to, law in taking into consideration the Petitioner's past conduct while awarding the

penalty of compulsory retirement, that having formed part of the charge itself; nor has it been demonstrated that the finding of guilt is one arrived at on no evidence to attract the limited interference contemplated in ***Kuldeep Singh (Supra)***.

31. The Hon'ble Supreme Court in ***Kuldeep Singh (Supra)***, held that a finding arrived at on no evidence, or on evidence, no reasonable person would act upon, is perverse and open to judicial scrutiny. However, a finding resting on some evidence, no matter how compendious, is not to be disturbed merely because another view was possible. Tested against this standard, the Petitioner's submission that the finding of guilt rests solely on hearsay is an assertion that must be measured against the actual record of the enquiry, rather than accepted at the level of submission alone.
32. The Petitioner's further contention is that "misconduct" is undefined under the CISF Rules, 2001. This submission is unsustainable. The absence of a codified definition does not leave the term at large; conduct involving a physical scuffle with a fellow member of a disciplined, armed force, in the course of duty or even out of duty hours, and involving recourse to a service weapon, is evidently conduct unbecoming of a member of such a Force. A charge of misconduct is not rendered vague or void merely for want of a

statutory definition where the conduct alleged is intrinsically incompatible with the discipline the Force is expected to maintain.

33. None of the authorities relied upon by the petitioner is shown to have been rendered on facts analogous to the present matter, involving an incident of physical confrontation within an armed force accompanied by resort to a service weapon.
34. For the reasons recorded above, this Court finds no infirmity, procedural or substantive in the impugned order No. V-15014/Maj-10/GHG/L&R/2013-3325 dated 28.09.2013, as corrected by Corrigendum No. V-15014/Maj-10/GHG/L&R/2013-3720 dated 29.10.2013, or in the concurrent orders of the Appellate Authority dated 28.02.2014 and the Revisional Authority dated 27.07.2014.
35. Consequently, **WPA 23103 of 2015** stands **dismissed** without order as to costs. **CAN 1 of 2022** and all connected applications, if any, are also, thus, disposed of.
36. Interim order, if any, stands vacated.
37. Parties shall act on the server copies of this Judgment duly downloaded from the official *website* of the High Court at Calcutta.

- 38.** Urgent Photostat certified copies of this Judgment, if applied for, be supplied to the parties upon compliance of all necessary and legal formalities.

(Ajay Kumar Gupta, J.)

Later

After passing the judgment in the Court, Mr. Bag, Learned Senior Counsel appearing on behalf of the petitioner prays for stay of the judgment for four weeks.

Such prayer is considered and rejected.

(Ajay Kumar Gupta, J.)

(P.A.)