



2025:DHC:5996-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7469/2012**

JAI BHAGWAN SANGWAN

.....Petitioner

Through: Mr. Ankur Chhibber, Advocate

versus

UOI & ANR

.....Respondents

Through: Ms. Pratima N Lakra, CGSC
along with Mr. Chandan Prajapati, Adv. &
Mr. Shailendra Kumar Mishra, Adv &
Jitender Rajotia AC/CISF, Sanjay Kumar
Inspector/CISF

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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22.07.2025

C. HARI SHANKAR, J.

1. The petitioner was appointed as Sub Inspector in the Central Industrial Security Force in 1995. On 30 March 2009, he was promoted as Inspector. On 21 August 2009, he was transferred to the Gua Ore Mines which, we are told, are in Jharkhand. He was regularized as Inspector in 12 October 2009.

2. On 17 May 2010, the petitioner was reverted to the post of Sub-Inspector with effect from 22 May 2010. Alleging that the reversion was without any prior notice to him, the petitioner moved the High



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Court of Orissa by way of WP (C) 10143/2010¹. In the said writ petition, the High Court of Orissa, on 10 June 2010, passed the following order :

“10.06.2010

W.P.(C) NO. 10143 of 2010 &M.C.NO.9287 OF 20102

Heard.

Issue notice.

Let four copies of the writ petition as well as the misc case be served on the learned Assistant Solicitor General of India appearing for the O.Ps.

Put up this matter on 7th July, 2010.

Learned Assistant Solicitor General of India submits that now the petitioner has been reverted.

Be that as it may, as an measure we direct that status quo in respect of the posting of the petitioner shall be maintained till next date.

Issue urgent certified copy.

Sd/- B.P. Das. V.J.
Sd/- C.R. Dasti V.J.”

3. It is clear, from a reading of the aforesaid order, that the interim protection granted to the petitioner was only with respect to his posting. We may note that the petitioner is also candid on this aspect in the list of dates filed with the writ petition in which, against the date 10 June 2010, it is specifically noted that the High Court of Orissa, Cuttack directed *status quo* qua the *posting of the petitioner*.

¹ Jai Bhagwan Sangwan v UOI



4. Thus, there was no stay of the reversion of the petitioner as Inspector.
5. The petitioner, thereafter, rejoined duties with the respondent on 23 June 2010 and continued to work till 26 June 2010. On 26 June 2010, he applied for 40 days' earned leave. The application was rejected on 27 June 2010.
6. On 28 June 2010, the petitioner again applied for earned leave. This application did not meet with any response from the respondent.
7. On 5 July 2010, the petitioner left his duties, and never rejoined.
8. On 6 May 2011, the High Court of Orissa allowed the petitioner's writ petition, following which the petitioner reported back to duty on 6 May 2011. Mr. Chhibber, who appears for the petitioner, points out that he was not taken on rolls, and was allowed to join as Inspector only in September 2011.
9. In the interregnum, on 20 December 2010, the petitioner was issued a charge sheet alleging unauthorised absence. The chargesheet contained three Articles of Charges, which read thus :

"CHARGE-I

Charged with gross indiscipline, dereliction of duty and unbecoming of a member of an Armed Force of the Union i.e. CISF in that CISF No. 954730019 SI/Exe J.B. Sangwan of CISF Unit GOM Gua was detailed for 'B' shift duty from 1300 to 2100 hrs on 27.06.2010, 'A' shift duties from 0500 to 1300 hrs on 28.06.2010 & 29.06.2010, 'C' shift duties from 2100 to 0500 hrs in



the intervening night of 30.06.10/01.07.10, 01/02.07.2010 & 02/03.07.2010 and also 'B' shift duties from 1300 hrs to 2100 hrs on 03.07.2010 & 04.07.2010 respectively. But he wilfully remained absent from duties on all the above dates without any prior information or permission from the competent authority".

CHARGE II

"Charged with gross misconduct, indiscipline and negligence of duty in that. CISF in that CISF No. 954730019 SI/ Exe J.B. Sangwan of CISF Unit GOM Gua was detailed for 'B' shift duty from 1300 to 2100 hrs on 05.07.2010 but he did not turn up for duty & wilfully remained absent without leave (AWL) from Unit line w.e.f 05.07.2010 to till date unauthorizedly without any prior information or permission from the competent authority.

CHARGE III

"CISF No. 954730019 SI/ Exe J.B. Sangwan of CISF Unit GOM Gua has inculcated the habit of committing various types of indiscipline activities and despite having been awarded 08 (eight) punishments in the past, he failed to improve upon his conduct, thus proved himself to be incorrigible".

10. It is an admitted position that the petitioner did not choose to participate in the inquiry proceedings which followed on the aforesaid chargesheet dated 20 December 2010, despite having been issued notices in that regard. Ultimately, on 20 October 2011, the petitioner was imposed a punishment of removal from service. His appeal against the said decision was dismissed by the Appellate Authority on 27 February 2012 and the Revision Petition thereagainst was also dismissed on 22 August 2012.

11. Aggrieved thereby, the petitioner has moved this Court under Article 226 of the Constitution of India.



12. We have heard Mr. Ankur Chhibber, learned counsel for the petitioner and Ms. Pratima N. Lakra, learned CGSC for the respondent, at length.

13. Mr. Chhibber very fairly acknowledges the fact that the petitioner actually remained away from his post from 5 July 2010 till 6 May 2011. He, however, submits that the respondent has erroneously regarded him as having been away till September 2011 though, from 6 May 2011 till September 2011, the respondent had no authority not to allow the petitioner to rejoin duty, after the petitioner's writ petition had succeeded in the High Court of Orissa. In so far as the petitioner's absence from 5 July 2010 to 6 May 2011 is concerned, Mr. Chhibber's contention is that the petitioner felt humiliated as having to serve as Inspector even after, as the petitioner understood, he had been granted interim relief by the High Court of Orissa. Thus, Mr. Chhibber submits that in these extenuating circumstances, the respondent ought not to have awarded him a penalty of removal from service and exhorts the Court to reduce the penalty or to remand the matter to the Disciplinary Authority to consider whether a reduced penalty could be awarded to the petitioner.

14. Ms. Lakra, *per contra*, supports the impugned order of penalty. She submits that there was no justification for the petitioner to remain away from duty from 5 July 2010 to 6 May 2011. She further submits that as the petitioner is a member of a paramilitary force, a greater degree of discipline is expected of him and that such a person, who remains away from duty for ten months, without any justification,



cannot be taken back on duty. No mitigating circumstances, therefore, exist.

15. We have addressed ourselves to the rival submissions at the bar.

16. We regret our inability to come to the aid of the petitioner in the facts of this case.

17. The Supreme Court has held, in several decisions², that the Court should not interfere with the quantum of punishment awarded following disciplinary proceedings unless the punishment is shockingly disproportionate to the misconduct.

18. It cannot be said, in the facts of the present case, that the petitioner was at all justified in remaining away from duty from 5 July 2010 till 6 May 2011, even if, one were to ignore the period from 6 May 2011 till September 2011. The petitioner remained away for more than ten months, without any justification whatsoever.

19. The order dated 10 June 2010 of the High Court of Orissa is clear and categorical. It notes the fact that the petitioner had already been reverted from service before the order was passed. Keeping in mind this fact, the High Court consciously restricted the interim relief only to the aspect of posting. There was no stay of reversion. The petitioner never chose to challenge the said order or seek any modification thereof. Having accepted the order as it was passed, there

² Refer **UPSRTC v Ram Kishan Arora**, (2007) 4 SCC 627



was no justification for the petitioner to presume that he would be entitled to continue as an Inspector.

20. The non-cooperative attitude of the petitioner is also manifest from the fact that he never chose even to present himself in the inquiry proceedings following the chargesheet dated 20 December 2010.

21. The petitioner cannot seek to capitalize on the allowing of his writ petition, by the High Court of Orissa, on 6 May 2011. By then, the petitioner had already remained away from duty without leave or any other justification whatsoever, for over 10 months. The respondent, therefore, acted in accordance with law in permitting the petitioner to rejoin, in deference to the decision of the High Court, and in instituting disciplinary proceedings against him for unauthorized absence from 5 July 2010 onwards.

22. The petitioner, in a strikingly defiant fashion, chose not to participate in the disciplinary proceedings either.

23. Article 226 cannot come to the aid of such a petitioner.

24. Ups and downs in service are a part of life. A person who has joined a uniformed service has to be ready to meet these exigencies. He cannot just walk away from his duty when placed in an uncomfortable position, or faced with a situation which is not palatable to him.



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25. We are of the opinion that the present case does not fall within that exalted category of cases in which the punishment is shockingly disproportionate to the conscience of the Court, so as to justify interference.

26. In these circumstances, we are of the opinion that no case is made out to grant the relief sought in the petition.

27. The writ petition is accordingly dismissed with no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

JULY 22, 2025/yg