

(2026) 08 BOM CK 3481
In the Bombay High Court
Case No : WRIT PETITION NO.8000 OF 2023

Brijesh Kumar

APPELLANT

Vs

The Chairman & Ors.

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Constitution of India — Article 226
Railway Protection Force Rules, 1987 — Rule 248, 110, 146.1, 146.2(i), 146.3, 146.4, 146.6, 146.7(iii), 147 (i), (ii), (iii), (viii), 148.2 (d), 212, 219
Railway Protection Force Act, 1987 — Rule 153
Indian Penal Code — Section 309
Railway Services (Conduct) Rules-1966 — Rule 3 (iii), (xix)
RTI Act

Citation : (2026) 08 BOM CK 3481

Hon'ble Judges : Aarti Sathe, J;G. S. Kulkarni, J

Bench : Division Bench

Advocate : Dr.Uday Warunjikar with Mr.Sumit Kate i/by Aditya Kharkar,
Mr.Mayuresh Lagu with Mr.Sagar Patil

Final Decision : Dismissed

Judgement

MANISH1. Rule. Rule made returnable forthwith. By consent of the parties taken up for final hearing.

2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

"a. This Hon'ble Court be pleased to call for record and proceedings of the order dated 27/12/2021 passed by the respondent no.3 in Appeal No.251 of 2021 as well as the order dated 16/08/2021 passed by the respondent no.4 in Appeal No.03 of 2021 and order dated 30/04/2021 passed in Appeal No.05 of 2021 and charge sheet dated 24/10/2020 and after satisfying about the legality, validity and propriety of the same, be pleased to set aside the same;

b. In furtherance of prayer clause (a) be pleased to direct the respondent no.1 to refund the salary which was deducted from the Petitioner as per the Order mentioned

hereinabove dated 30.04.2021 within such time as this Hon'ble Court may deem fit and proper."

3. The primary challenge of the Petitioner in the present petition is in respect of the action of the Respondents i.e. Respondent Nos. 3 to 5 of reducing the Petitioner's grade of service to the lowest stage at Level-3 with a consequent reduction in the salary for a period of five years with cumulative effect.

4. Briefly the facts are as follows.

(i) On 1st December 2009, the Petitioner came to be appointed as a Constable in Railway Protection Force (hereinafter referred to as "RPF") at Dhanbad, Jharkhand. Thereafter on 2nd November 2010 the Petitioner was transferred to Igatpuri, Nashik on the same post. At that time the Petitioner made a request for transfer from Central Railway to North Eastern Railway as the daughter of the Petitioner was suffering from severe allergy/asthma. It is the Petitioner's contention that he took prior permission of the Respondent no.3 to appear before the Respondent no.2 in respect of the transfer;

(ii) The Petitioner appeared before Respondent no.2 and made a representation for transfer. On 10th February 2020 Respondent no.2 directed the Petitioner to produce the childcare certificate. The Petitioner produced the childcare certificate. On 24th February 2020 the Petitioner appeared before Respondent no.3 and took permission to make a representation to Respondent no.2 in regard to his transfer. It is Petitioner's contention that he came to know that transfer can also be done by applying to the Railway Board. Again, on 9th March 2020 the Petitioner sought permission from Respondent no.3 to appear before Respondent no.2. However, the Respondent no.3 refused the permission. It is the Petitioner's case that one Shashi Jaiswal who was Head Constable working in the office of Respondent no.3, demanded Rs.1,50,000/- from Petitioner to forward his application for transfer to Respondent no.2. However, the Petitioner denied to pay the said amount;

(iii) On 16th March 2020 the Petitioner directly visited the office of Respondent no.2 and appeared before Respondent no.2. It is the Petitioner's contention that on 22nd April 2020 Respondent no.2 directed Respondent no.3 to instruct the Petitioner to make an application along with an undertaking to the Respondent no.3 stating that after transfer he would accept the bottom seniority under the rules of transfer. The Petitioner made an application along with an undertaking;

(iv) On 9th July 2020 Respondent no.3 rejected the transfer application of the Petitioner on the ground that the Petitioner had not written in the undertaking that he will accept the bottom seniority. It is Petitioner's contention that the Respondent no.3 demanded bribe from the Petitioner for forwarding the application for transfer. Hence the Petitioner made a complaint against Respondent no.3 on 18th September 2020. On 24th July 2020 the Respondent no.5 communicated the rejection order to the Petitioner. As the Petitioner's request for transfer was rejected on 24th July 2020, the Petitioner made an

attempt to commit suicide on 25th July 2020. On 17th August 2020 the Respondent no.4 published common interstate transfer list wherein it was specifically stated that Respondent no.3 had informed that the case of the Petitioner cannot be considered as per rules;

(v) In view of the fact that the Petitioner had made a complaint against Respondent no.3 demanding bribe and also on account of the Petitioner's attempt to commit suicide, the Respondents initiated an inquiry against the Petitioner and on 24th October 2020 the charge sheet for departmental inquiry was filed against the Petitioner. In pursuance of the charge sheet, the Respondents issued a show cause notice to the Petitioner dated 23rd February 2021 asking the Petitioner to show cause as to why action could not be taken against him. The Petitioner submitted detailed reply to the show cause notice and requested to call for all the records and witnesses for the aforesaid inquiry. That reply was rejected by Respondent no.5 on 30th April 2021 and Respondent no.5 passed an order on 30th April 2021 inflicting punishment on the Petitioner of reduction in rank and started recovery of Rs.21,700/- for the period of five years.

(vi) Being aggrieved by the impugned order of Respondent no.5 dated 30th April 2021 directing reduction in rank and starting recovery of Rs.21,700/- per month, the Petitioner preferred an appeal before the Respondent no.4 on 12th May 2021. By order dated 16th August 2021 the Respondent no.4 rejected the appeal of the Petitioner.

(vii) The Petitioner challenged the order dated 16th August 2021 passed by Respondent no.4 by preferring an appeal before Respondent no.3 on 3rd August 2021. After hearing the parties, the Respondent no.3 by order dated 27th December 2021 rejected the appeal of Petitioner and confirmed the earlier orders dated 16th August 2021 and 30th April 2021;

(viii) The Petitioner thereafter made a representation to Respondent no.2 on 2nd May 2022 seeking his intervention in the matter and sent reminder letters to the Respondents to consider the case of the Petitioner inasmuch as it was the Petitioner's contention that the entire process of not granting transfer to the Petitioner, was vitiated and the charge sheet filed against the Petitioner was only because the Petitioner had lodged a complaint against the Head Constable working in the office of Respondent no.3 and against Respondent no.3 himself in respect of demanding bribe for transfer of the Petitioner.

5. It is in the backdrop of this chequered history regarding Petitioner's employment with Railways, Petitioner in the present petition has challenged the action of the Respondents i.e. Respondent Nos 3 to 5 of reducing the Petitioner's grade of service to the lowest stage at Level-3 with a consequent reduction in the salary for a period of five years with cumulative effect. ('impugned orders').

6. Dr. Warunjikar with Mr. Sumit Kate appeared on behalf of the Petitioner and Mr. Mayuresh Lagu with Mr. Sagar Patil appeared for the Respondents. Dr. Warunjikar appearing on behalf of Petitioner submitted that the orders passed by

the Respondent nos.3 to 5 are illegal, arbitrary and liable to be quashed and set aside. It is his submission that the departmental inquiry was initiated by the Respondents without following the due process of law and the inquiry was primarily initiated only as a counter blast to the complaint made by the Petitioner in respect of alleged bribe demand made by the Head Constable working in the office of Respondent no.3 and Respondent no.3 himself. He also submitted that the inquiry was conducted by an officer who was lower in rank and not by the correct officer, as mandated by Rule 248 of the Railway Protection Force Rules, 1987 (hereinafter referred to as the said "RPF Rules"). He further submitted that the Appellate Authority under the Rules has also recorded the findings which were biased, and without considering the fact that demand of bribe made by Respondent no.3 and the Head Constable working at his establishment, and the subsequent rejection of the transfer of the Petitioner on account of non-payment of bribe by the Petitioner, were the driving factors for the Petitioner to attempt suicide on 25th July 2020. He further submitted that even otherwise the charges which were framed against the Petitioner, were not of serious nature and in no way linked to any serious misconduct on the part of the Petitioner at the time of performance of his duty. He therefore submitted that the entire process of demoting the Petitioner to a lower rank was only a way to spite the Petitioner, inasmuch as he had played the role of a whistle blower in bringing to light the bribe as demanded by the Head Constable and Respondent no.3. He further submitted that the Petitioner was a person belonging to the low-income group and was unable to pay exorbitant amount of Rs.1,50,000/- by way of bribe and also his transfer was held up only because he was unable to pay the bribe. In view of the aforesaid submissions, learned counsel on behalf of the Petitioner submitted that the impugned orders passed by Respondent nos.3 to 5 are liable to be quashed and set aside.

7. Per contra, Mr. Mayuresh Lagu appearing on behalf of the Respondents submitted that the action of the Petitioner in trying to commit suicide was itself a misconduct which the Petitioner had indulged in on duty. He further submitted that even the subsequent suicide note dated 18th September 2020 sent to the Regional Manager/Railway Security Officer, New Delhi by e-mail, was a serious misconduct committed by the Petitioner, considering that he was a Constable in the RPF. He also submitted that the allegations of bribe as sought to be made by the Petitioner, were lame, wrong and baseless and were clearly made with a mala fide intention. He in fact submitted that even the documents which the Petitioner has submitted in support of ill-health of his daughter for the purpose of transfer, were obtained by the Petitioner by fraud. He further submitted that there were concurrent findings of facts by three orders viz. (i) order dated 27th December 2021 passed by Respondent no.3 in Appeal No.251 of 2021, (ii) order dated 16th August 2021 passed by Respondent no.4 in Appeal No.3 of 2021, and (iii) the order dated 30th April 2021 passed by Respondent no.5 in Appeal No.5 of 2021 respectively wherein it has been found that the Petitioner indeed tried to browbeat the authorities in the RPF and these findings establish that the

punishment meted out to the Petitioner was not disproportionate or arbitrary. He further submitted that looking at the conduct of the Petitioner, a higher punishment could have been meted out to him and in fact this punishment of demoting the Petitioner to a lower rank was a very mild punishment which was meted to the Petitioner.

Analysis and Findings

8. We have heard learned counsel on behalf of the parties and perused the papers and proceedings with their assistance. On perusal of the material on record and the findings as rendered by three fact finding bodies, we find much substance in the arguments as advanced by learned Counsel on behalf of the Respondent that the punishment meted out to the Petitioner is not disproportionate and the Petitioner has been rightly demoted to a lower rank. Further, the Petitioner being a Constable in the RPF was expected to have an impeccable track record, display stellar mental strength and physical fitness, inasmuch as the RPF is an armed force of the Union Government wherein discipline has paramount importance. As a member of any armed force, the faith reposed in the armed forces by the general public is very high and hence a conduct above par is what is expected of 'men in uniform'. We therefore find substance in the arguments as advanced by the learned counsel on behalf of the Respondent that the punishment meted out to the Petitioner is not disproportionate and the Petitioner has been rightly demoted to a lower rank.

9. We are further of the view that attempt to commit suicide by the Petitioner on 25th July 2020 and thereafter sending a suicide note on 18th September 2020 by e-mail to the Regional Manager/Railway Security Officer, New Delhi was definitely a pressure tactic to browbeat the higher authorities and this conduct of the Petitioner would definitely amount to breach of RPF Rules as alleged in the charge sheet dated 24th October 2020 and the show cause notice dated 23rd February 2021. The Petitioner, therefore, showed gross negligence and irresponsibility while on duty, which was not in consonance with the RPF Rules, and hence the charges framed against the Petitioner by way of chargesheet dated 24th October 2020 were correct and not arbitrary. The charges framed against the Petitioner by chargesheet dated 24th October 2020, and subsequently communicated to the Petitioner vide letter dated 24th October 2020 are reproduced below:

(Official translation of Hindi document in English)

Annexure-I

Charge Sheet against Shri Brijesh Kumar, Constable/RPF/Igatpuri under rule 153 of the Railway Protection Force Act, 1987.

Charges:

1) You were posted on duty at D/B/Van Beat in the night shift from 23.00 hours to 07.00 hours on the date 25.07.2020 and on receipt of intimation by you during the duty regarding the application given by you for zone transfer being rejected by the

Headquarter, you consumed rat poison at around 03:45 hours with an intention to commit suicide. You were sent to Railway Hospital, Igatpuri with other Force members for preliminary treatment in the matter. In spite of being aware that it is a punishable offence under section 309 of the Indian Penal Code to attempt to commit suicide, you attempted to commit suicide instead of discharging your duty. Your this act amounts to negligence, irresponsibility and discrediting the reputation of the Force and cowardliness as a member of the disciplined Force. Therefore, you are charged with violation of rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147 (i), (ii), (iii), (viii) of the RPF Rules 1987 and rule 3 (iii), (xix) of the Railway Services (Conduct) Rules-1966.

2) On the date 22.09.2020 you went to Office of the Principal Chief Security Commissioner/Mumbai without permission and order of the Sr. Division Security Commissioner (Co-ordination)/Mumbai C S M T, though you were supposed to go to Office of the Principal Chief Security Commissioner/Mumbai after obtaining permission from Office of the SR. Divisional Security Commissioner (Coordination)/Mumbai C S M T as per the rule. However, instead of doing so, you have violated the rules. Therefore, your this act is not in accordance with the dignity of the Force as a member of the disciplined Force and exhibits irresponsible and sheer negligent conduct and violation of Rules. Therefore, you are charged with violation of rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147 (i), (ii), (iii) of the RPF Rules 1987 and rule 3 (iii), (xix) of the Railway Services (Conduct) Rules-1966.

3) You submitted the certificate dated 22.02.2020 of Office of the Medical Superintendent, Igatpuri as a document to this Office. However, on scrutinizing the said certificate, Office of the Medical Superintendent, Igatpuri informed vide its letter dated 05.10.2020 that, the certificate submitted by you has not been prepared at Office of the Medical Superintendent, Igatpuri. From this it becomes clear that, you submitted wrong certificate for your self-interest by misleading the Department. Your this act is not in accordance with the dignity of the Force as a member of the disciplined Force and exhibits irresponsible and sheer negligent conduct and violation of Rules. Therefore, you are charged with violation of rules 146.1, 146.2(i), 146.3, 146.4, 146.6, 146.7(iii), 147 (i), (ii), (iii) of the RPF Rules 1987 and rule 3 (iii), (xix) of the Railway Services (Conduct) Rules-1966.

4) On the date 18.09.2020 you wrote a suicide note and sent it via email to the Director General/ New Delhi. Thereby you have attempted to put pressure on the Administration for transfer by giving threats of committing suicide to the Department/Officers for your transfer upon an application for transfer made by you. From this it becomes clear that, your this act is not in accordance with the dignity of the Force as a member of the disciplined Force and exhibits irresponsible and sheer negligent conduct and violation of Rules and your this conduct shows timidity and cowardliness. Therefore, you are charged with violation of rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147 (i), (ii), (iii), (viii) of the RPF Rules 1987 and rule 3 (iii), (xix) of the Railway Services (Conduct) Rules-1966.

5) On the date 18.09.2020 you wrote a suicide note and sent it via email to the Director General/ New Delhi. You made a complaint therein against Shashi Jaiswal, Constable, working at Office of the Principal Chief Security Commissioner/Mumbai that he demanded Rs. 150000/- for transfer. You have given your affidavit also under rule 110 of RPF Rules in this regard. On inquiring into the said complaint, it is found that the complaint made by you is false and baseless. From this it becomes clear that, you have made such false and baseless complaint for your self-interest. From this it becomes clear that, your this act is not in accordance with the dignity of the Force as a member of the disciplined Force and exhibits irresponsible and sheer negligent conduct and violation of Rules. Therefore,

you are charged with violation of rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147 (i), (ii), (iii) of the RPF Rules 1987 and rule 3 (iii), (xix) of the Railway Services (Conduct) Rules-1966.

Allegation of charges:-

As per the Report No. ASC/BB/RPF/CT-BK/20, dated 08.10.2020 of the Assistant Security Commissioner, Mumbai CSMT, the Constable Brijesh Kumar was posted on duty at D/B/ Van Beat in the night shift from 23.00 hours to 07.00 hours on the date 25.07.2020. You consumed rat poison at around 03:45 hours with an intention to commit suicide. You were sent to Railway Hospital, Igatpuri with other Force members for preliminary treatment in the matter. In spite of being aware that it is a punishable offence under section 309 of the Indian Penal Code to attempt to commit suicide, you attempted to commit suicide instead of discharging your duty properly.

On the date 22.09.2020 you went to Office of the Principal Chief Security Commissioner/ Mumbai without permission and order of the Sr. Division Security Commissioner (Co-ordination)/Mumbai C S M T, though you were supposed to go to Office of the Principal Chief Security Commissioner/Mumbai after obtaining permission from Office of the SR. Divisional Security Commissioner (Co-ordination)/Mumbai C S M T as per the rule. However, instead of doing so, you have violated the rules.

You submitted the certificate dated 22.02.2020 of Office of the Medical Superintendent, Igatpuri as a document to this Office. However, on scrutinizing the said certificate, Office of the Medical Superintendent, Igatpuri informed vide its letter dated 05.10.2020 that, the certificate submitted by you has not been prepared at Office of the Medical Superintendent, Igatpuri. From this it becomes clear that, you submitted wrong certificate for your self-interest by misleading the Department.

On the date 18.09.2020 you wrote a suicide note and sent it via email to the Director General/ New Delhi. Thereby you have attempted to put pressure on the Administration for transfer by giving threats of committing suicide to the Department/Officers for your transfer upon an application for transfer made by you.

On the date 18.09.2020 you wrote a suicide note and sent it via email to the Director General/ New Delhi. You made a complaint therein against Shashi Jaiswal, Constable, working at Office of the Principal Chief Security Commissioner/Mumbai that he demanded Rs. 150000/- for transfer. You have given your affidavit also under rule 110 of RPF Rules in this regard. On inquiring into the said complaint, it is found that the complaint made by you is false and baseless.

From this it becomes clear that, your this act is not in accordance with the dignity of the Force as a member of the disciplined Force and exhibits irresponsible and sheer negligent conduct and violation of Rules and your this conduct shows timidity and cowardliness. Therefore, you are charged with violation of rules 146.1, 146.2(i), 146.3, 146.4, 146.6, 146.7(iii), 147 (i), (ii), (iii), (viii) of the RPF Rules 1987 and rule 3 (iii), (xix) of the Railway Services (Conduct) Rules-1966.

The documents relied upon in respect of the charges:

01. Report received vide Report No. ASC/BB/RPF/CT-BK/20, dated 08.10.2020 of the Assistant Security Commissioner, Mumbai CSMT. Total 133 pages.

02. Other documents, if required, during the enquiry.

Prosecution Witnesses in respect of the charges:

01. Shri M.S. Barve, Inspector, RPF, Igatpuri.

02. Shri R.S. Gurjar, Zonal Inspector, Office of the Sr. zonal Security Commissioner, RPF, Mumbai.
03. Shri Raisingh, Assistant Sub-Inspector, RPF, Igatpuri.
04. Shri Rajnish Kumar, ADMO/Railway Hospital/Igatpuri.
05. Shri Vijay Kant, Medical Superintendent, ADMO/Railway Hospital/Igatpuri.
06. Shri Vasudevan Tambi, Headquarter, Superintendent, Office of the Principal Chief Security Commissioner, RPF, Mumbai.
07. Shri Manjit Kumar, Constable, RPF, Igatpuri.
08. Shri Shashi Jaiswal, Constable/Office of the Principal Chief Security Commissioner/ Mumbai.
09. Other witnesses, if required, during the Departmental Enquiry

(emphasis supplied)

10. Further even the inquiry report records findings of fact that the charges against the Petitioner had stood proved, and the same goes to show that the Petitioner had breached the relevant RPF Rules and also not acted in consonance with the high standards required to be observed by a Constable working in the armed forces. The relevant findings of the inquiry report are reproduced below:

(Official translation of Hindi document in English)

In the departmental enquiry relating to the charges levelled against Constable Brijesh Kumar, the statements of a total of eight prosecution witnesses and one defence witness were recorded and the documents relating to the charges were examined. Upon evaluation of the testimony of the aforesaid witnesses in the enquiry, the following findings were arrived at in respect of the charges levelled against Constable Brijesh Kumar.

Charge No. 01: On 25.07.2020, Constable Brijesh Kumar, was posted to

D/Brake/Vehicle Beat during the 23:00 hours to 07:00 hours shift. In this regard, the statements of Assistant Sub-Inspector M. A. Ray Singh, the Shift In-charge, and Constable Manjeet Kumar, who was posted on sentry duty, were recorded. They stated that, during the course of duty, Constable Brijesh Kumar was not under any kind of stress and that his mental condition was normal. At the time of the duty mounting, the said Constable did not discuss with the Shift In-charge or with any other member of the staff that he was under mental stress on account of his Zone Transfer not having been effected. Thereafter, during the course of duty, the Shift In-charge also carried out a night patrol. Even at that time, Constable Brijesh Kumar did not speak to the Shift In-charge, who had come on night patrol, about any stress or difficulty. Thereafter, at about 03:30 hours, the charged member of the Force, without informing anyone, left his beat and came to the office. After directly vomiting into the wash basin, he lay down on the bench in front of the table. When Constable Manjeet Kumar noticed him, foam was coming out of his mouth. Upon being asked, he stated that he had consumed poison. The matter was reported to the Shift In-charge, and, in accordance with the instructions of the Shift In-charge, he was taken to the Railway Hospital, Igatpuri. Dr. Rajnish Kumar, Senior Divisional Medical Officer, Railway Hospital, Igatpuri, who administered the primary treatment, stated in his deposition that, upon speaking with the said Constable, he responded normally and stated that he had consumed rat poison and that he had

brought the poison from his native village, Gorakhpur. He did not produce any packet or bottle of the poison, nor did Constable Manjeet Kumar, who had accompanied him, produce any evidence in that regard. Thereafter, without taking any risk and for the purpose of ICU monitoring and laboratory investigations, he was referred to Sujata Birla Hospital, Nashik Road, after being administered preliminary treatment. After laboratory investigations were conducted at Sujata Birla Hospital, Nashik Road, and upon his return to Railway Hospital, Igatpuri, it was confirmed that the charged member of the Force's Total Bilirubin level was 1.5, which was 0.1 above the normal value of 1.4. For that reason, he was referred to Railway Hospital, Byculla. In this regard, the investigation report was obtained from Dr. Rajnish Kumar, ADMO/IGP, in which also the report of the charged member of the Force has been stated to be normal. Thereafter, during the enquiry, on 28.01.2021, the statement of Inspector S. S. Barve, RPF Police Station, Igatpuri, was recorded. He confirmed that the charged member of the Force had become disappointed after his application for Zone Transfer had been rejected by the Headquarters and, out of such disappointment, had consumed poisonous substance. He also produced the confidential reports dated 31.07.2020 and 21.09.2020 submitted by him to the Senior Divisional Security Commissioner (C), which were exhibited and verified. He further stated that, if the charged member of the Force could become so disappointed upon rejection of his application for Zone Transfer by the Headquarters as to consume poisonous substance with the intention of committing suicide, then in future also, while posted at the said place, either during or after duty, he might commit any improper act and level allegations against any officer or member of the staff. He further stated that the said Constable had been repeatedly submitting applications for Zone Transfer by citing his daughter's asthma as a ground, with a view to put pressure upon the Administration. In this regard, despite counseling having been conducted by him as well as by ASC/Kalyan, the said Constable continued to submit repeated applications for Zone Transfer. It was further stated that, on 25.07.2020, the said Constable attempted to commit suicide by consuming rat poison in order to put pressure upon the Administration for his transfer, which, as a member of the Force, is an unbecoming, irresponsible and indisciplined act. I, the Enquiry Officer, visited Sujata Birla Hospital, Nashik Road, conducted the enquiry in respect of the charged member of the Force and obtained the medical report. The said report shows that the charged member of the Force, Constable Brijesh Kumar, was treated for "SUSPECTED" consumption of poisonous substance from 25.07.2020 to 27.07.2020. All the medical reports contained in the said report have been found to be normal. Accordingly, it could not be clearly established as to the quantity of poisonous substance allegedly consumed by the charged member of the Force, nor could any information in that regard be obtained. This gives rise to the inference that the charged member of the Force had, pursuant to a premeditated plan, brought rat poison with him from his native village, Gorakhpur, and that, according to his own statement, he had consumed the said poison. In the examination of the prosecution witnesses, namely Constable Manjeet Kumar, Assistant Sub Inspector M. A. Raysingh, Inspector S. S. Barve, and ADMO/IGP Dr. Rajnish Kumar, no evidence in this regard was brought on record. Nevertheless, according to his own statement and the statement made by him during the preliminary enquiry, he had deliberately consumed rat poison during the course of duty so as to bring his case of Zone Transfer into focus and thereby put pressure upon the Administration to secure his Zone Transfer. Accordingly, it appears that the charged member of the Force deliberately violated the Rules. Such conduct, on the part of a member of a disciplined Force, is inconsistent with the dignity of the Force and reflects irresponsible and negligent conduct as well as violation of the Rules. Therefore, Charge No. 01 alleging violation of Rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147(i), (ii), (iii) and (viii) of the RPF Rules, 1987, and Rules 3(iii) and 3(xix) of the Railway Services

(Conduct) Rules, 1966, is held to be proved.

Charge No. 02: On 22.09.2020, the charged member of the Force visited the office

of the Principal Chief Security Commissioner, Mumbai, without obtaining the permission of the Senior Divisional Security Commissioner (Coordination), Mumbai CSMT, and without any order authorising such visit. As per the prescribed procedure, he was required to obtain permission from the office of the Senior Divisional Security Commissioner (Coordination), Mumbai CSMT before visiting the office of the Principal Chief Security Commissioner, Mumbai. In this regard, Headquarters Letter No. PCSC/E-1/Staff Grievances dated 12.08.2020 had directed all members of the Force that, if they were required to visit the Headquarters for any official purpose, it is mandatory to obtain the permission of their respective Senior Divisional Security Commissioner/Divisional Security Commissioner. In this connection, during the Preliminary Enquiry, the confidential letter of the Principal Chief Security Commissioner bearing No. CON./VIKHUSHA/73/2020 dated 25.09.2020, together with the CCTV footage showing the charged member of the Force entering the office, was produced. Further, in reply to Question No. 03 put by the Enquiry Officer in the cross-examination of Inspector S. S. Barve, Igatpuri, the charged member of the Force stated that he had not obtained any permission from Inspector S. S. Barve for visiting the office of the Principal Chief Security Commissioner, Mumbai. Accordingly, it appears that the charged member of the Force deliberately violated the Rules. Such conduct, on the part of a member of a disciplined Force, is inconsistent with the dignity of the Force and reflects irresponsible and negligent conduct as well as violation of the Rules. Therefore, Charge No. 02 alleging violation of Rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147(i), (ii), (iii) and Rule 3(iii) and (xix) of the Railway Services (Conduct) Rules, 1966, is held to be proved.

Charge No. 03: The charged member of the Force submitted as a document in the office, a certificate dated 22.02.2020 issued by the Office of the Medical Superintendent, Igatpuri. However, during the Preliminary Enquiry, Shri N. N. Saiprasad, ASC/BB-1, the Preliminary Enquiry Officer, visited the Railway Hospital, Igatpuri, on 05.10.2020 and verified the said certificate with Dr. Vijay Kant, the issuing doctor. During such verification, Dr. Vijay Kant stated that the certificate submitted by the charged member of the Force has not been prepared at the Railway Hospital, Igatpuri, and declared the said certificate to be "invalid." Thereafter, on 09.12.2020, I, the Enquiry Officer, recorded the statement of Dr. Vijay Kant, Assistant Divisional Medical Officer, Railway Hospital, Igatpuri. He stated that, on 20.02.2020, he had issued a certificate of "Continuous Care of Parents" to Constable Brijesh Kumar, RPF, Igatpuri, upon his request, and the said certificate was produced during the enquiry. However, on 22.02.2020, the said Constable again brought a certificate relating to the "Category of Care Giver." Owing to the large number of patients, Dr. Vijay Kant, Assistant Divisional Medical Officer, Railway Hospital, Igatpuri, did not read the certificate in its entirety and signed it, whereupon the certificate was issued. Thereafter, on 05.10.2020, Shri Saiprasad, ASC/RPF/Mumbai-I, who had come from Headquarters, showed him the certificate dated 22.02.2020. Upon examination, it was found that the letterhead used for the said certificate was incorrect. Consequently, he stated that the certificate issued on 22.02.2020 was declared invalid on 05.10.2020 by issuing an invalidation certificate on the letterhead of Railway Hospital, Igatpuri. The same was exhibited and verified. This clearly establishes that the charged member of the Force deliberately attempted to mislead the Department for his own benefit by using an incorrect letterhead. Despite knowing that the certificate pertained to Railway Hospital, Igatpuri, he used the letterhead of CMS, Railway Hospital, Kalyan,

obtained the signature of Dr. Vijay Kant, Igatpuri, on the certificate, and submitted it as a document in support of his Zone Transfer. Such conduct, on the part of a member of a disciplined Force, is inconsistent with the dignity of the Force and reflects irresponsible, grossly negligent conduct and violation of the Rules. Therefore, Charge No. 03 alleging violation of Rules 146.1, 146.2(i), 146.3, 146.4, 146.6, 146.7(iii), 147(i), (ii), (iii) of the RPF Rules, 1987, and Rules 3(iii) and 3(xix) of the Railway Services (Conduct) Rules, 1966, is held to be proved.

Charge No. 04: The charged member of the Force has sent, by e-mail, a suicide note

dated 18.09.2020 to the Director General, New Delhi. In the said e-mail, upon submission of his application for Zone Transfer, the charged member of the Force attempted to put pressure upon the Administration for his transfer by threatening to commit suicide and by addressing such threat to the departmental authorities. In this regard, on 28.01.2021, the statement of Inspector S. S. Barve, RPF Police Station, Igatpuri, was recorded. He confirmed that, after the Headquarters had rejected the charged member of the Force's application for Zone Transfer, he became disappointed and consumed poisonous substance. He also produced the confidential reports dated 31.07.2020 and 21.09.2020 submitted by him to the Senior Divisional Security Commissioner (C), which were exhibited and verified. He further stated that, if the charged member of the Force could become so disappointed upon rejection of his application for Zone Transfer by the Headquarters as to consume poisonous substance with the intention of ending his life, then in future also, while posted at the said place, either during or after duty, he might commit any improper act and level allegations against any officer or member of the staff. He further stated that the said Constable has been repeatedly submitting applications for Zone Transfer by citing his daughter's asthma as a ground, with a view to put pressure upon the Administration. In this regard, despite counseling having been conducted by him as well as by ASC/Kalyan, the said Constable has continued to submit repeated applications for Zone Transfer and on 25.07.2020 attempted to commit suicide by consuming rat poison so as to put pressure upon the Administration for his transfer. Upon meticulous examination of the case file received during the departmental enquiry, it has been found that, in the statement made by the charged member of the Force before the Preliminary Enquiry Officer, Shri N. N. Saiprasad, ASC/BB-1, in reply to Question No. 08, he stated that he has sent an e-mail to the Director General, RPF, New Delhi, on 18.09.2020. Upon meticulous examination of the said e-mail, it has been found that he stated that, since his application for Zone Transfer has been repeatedly rejected by the then PCSC/CR, Office Superintendent Nilima, and Head Constable Shashi Jaiswal, he attempted to commit suicide by consuming rat poison and that if he committed suicide in future, the then PCSC/CR, Office Superintendent Nilima, and Head Constable Shashi Jaiswal would be responsible for the same. This clearly establishes that the charged member of the Force deliberately attempted to commit suicide by consuming rat poison during the course of duty on 25.07.2020 and thereafter, as his Zone Transfer was not effected, he deliberately sent the suicide note by e-mail to the Director General, New Delhi, on 18.09.2020, making allegations against the officers and staff of the Headquarters so as to draw his attention and secure his Zone Transfer. This clearly establishes that such conduct, on the part of the charged member of the Force, is inconsistent with the dignity of the Force and reflects irresponsible and grossly negligent conduct, violation of the Rules, and further demonstrates cowardice and timidity on his part. Therefore, Charge No. 04 alleging violation of Rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147(i), (ii), (iii) of the RPF Rules, 1987, and Rules 3(iii) and 3(xix) of the Railway Services (Conduct) Rules, 1966, is held to be proved.

Charge No. 05: The charged member of the Force has sent, by e-mail, a suicide note

dated 18.09.2020 to the Director General, New Delhi, in which he made a complaint against Head Constable Shashi Jaiswal, posted in the office of the Principal Chief Security Commissioner, Mumbai, alleging that he had demanded Rs. 150000/- for processing his transfer. In this regard, the charged member of the Force has also submitted his affidavit under Rule 110 of the RPF Rules. In this connection, during the enquiry, on 13.01.2021, the statement of R. S. Gurjar, Division Inspector, Office of the Senior Divisional Security Commissioner (C), Mumbai, was recorded. He produced the affidavit written and submitted by Constable Brijesh Kumar on 24.10.2020 in the office of the Senior Divisional Security Commissioner (C), which was exhibited and verified. In the said affidavit, the charged member of the Force stated that Head Constable Shashi Jaiswal, posted in the office of the PCSC, had demanded Rs. 150000/- for forwarding his application to the Railway Board. He further stated that the said affidavit had been written and submitted before him. The charged member of the Force also stated therein that, if during the enquiry the complaint made by him is found to be false, he would accept whatever action might be taken against him by the Disciplinary Authority under Rule 110 of the RPF Rules, 1987. In this regard, the charged member of the Force did not produce any evidence or proof before him in support of his allegation that Head Constable Shashi Jaiswal had demanded money from him. During the departmental enquiry, on 21.01.2021, the statement of Head Constable Shashi Jaiswal, Office of the Principal Chief Security Commissioner, RPF, Mumbai, was recorded. He was shown the statement given by him before the Preliminary Enquiry Officer, which was exhibited and verified. In his deposition, Head Constable Shashi Jaiswal stated that the allegation made by the charged member of the Force that he had demanded Rs. 150000/- was completely false and baseless. The charged member of the Force also did not put any question in this regard during the cross-examination, nor did he produce any evidence or proof before me, the Enquiry Officer, to establish that Head Constable Shashi Jaiswal had demanded Rs. 150,000/- from Constable Brijesh Kumar. Accordingly, it appears that the charged member of the Force made such false and baseless complaint for his own benefit. This clearly establishes that such conduct, on the part of the charged member of the Force, is inconsistent with the dignity of the Force and reflects irresponsible and grossly negligent conduct as well as violation of the Rules. Therefore, Charge No. 05 alleging violation of Rules 146.1, 146.2(i), 146.3, 146.4, 146.7(iii), 147(i), (ii), (iii) of the RPF Rules, 1987, and Rules 3(iii) and 3(xix) of the Railway Services (Conduct) Rules, 1966, is held to be proved.

8. Conclusion: The charged member of the Force has not defended the charges

levelled against him under Charge Memorandum No. ASC/RPF/Kalyan/DAR/153-01/20 dated 24.10.2020; instead, he has levelled allegations against the Administration, the enquiry into which is not being conducted by me, the Enquiry Officer. He was repeatedly advised to defend the charges levelled against him by producing evidence and witnesses. However, despite understanding the same, the charged member of the Force deliberately attempted to divert the enquiry in a different direction. Whereas, during the enquiry, in reply to the question put by Dr. Rajnish Kumar, the charged member of the Force stated that he has been keeping his daughter with him and getting her treated. It has also been stated earlier, under Letter No. 2018/Sec.(ABE)/TR-6/86 dated 25.02.2020, that the charged member of the Force had unnecessarily wasted the time of the Railway Board, which is not expected of a member of a disciplined Force. The same is recorded at Page No. 01 of the Preliminary Enquiry File. During the enquiry, by repeatedly citing the Rules, he attempted to put pressure upon me, the Enquiry Officer, by repeatedly submitting

applications personally as well as through RPF Post, Igatpuri, thereby attempting to waste time and obstruct the enquiry proceedings.

From the examination of all the relevant witnesses and documents during the above enquiry, it is clear that the charged member of the Force, instead of cooperating with the enquiry and defending himself, has consistently levelled allegations against others. Despite being repeatedly called upon to submit his final statement, he did not submit the same. Such conduct, on the part of a member of a disciplined Force, is inconsistent with the dignity of the Force and reflects irresponsible and grossly negligent conduct as well as violation of the Rules. Further, the charged member of the Force has not produced any evidence, witness, or document to establish that the charges levelled against him are false. Hence, after completion of the entire departmental enquiry and on the basis of all the circumstantial evidence and the witnesses, I arrive at the conclusion that all the charges levelled against Constable Brijesh Kumar of RPF, Igatpuri, are proved.

(emphasis supplied)

11. We are also in agreement with the submission made on behalf of the Respondents, by learned counsel Mr. Lagu that there are concurrent findings of fact recorded by the fact-finding bodies whereby the Petitioner has been held guilty of misconduct. The relevant paragraphs of orders dated 30th April 2021, 16th August 2021 and 27th December 2021 are reproduced below:

(Official translation of Hindi document in English)

Order dated 30th April 2021 passed by Respondent No.5

In reply to the Show Cause Notice, the charged Constable merely attempted to evade his responsibilities, however, the charges leveled against the charged Constable are very serious. The Railway Protection Force is an organisation of the armed force, wherein it is mandatory to maintain discipline. However, the indiscipline committed by the charged Constable needs to be taken very seriously. However, the act committed by the charged Constable is highly condemnable. By his such kind of act, he has violated the rules of the RPF Rules, 1987.

The charged Constable tried to commit suicide, which requires to be considered very seriously, as the act committed by him has an adverse effect on other Force members also. On perusing the enquiry report submitted by the Enquiry Officer in the matter, I agree with the findings recorded therein that the charges leveled against him stand proved.

After attempting suicide on the date 25/07/2020, the charged Constable on the date 18/09/2020, sent a complaint through an e-mail to the Director General, RPF, New Delhi, threatening to commit suicide. It is apparent from the same that the charged Constable attempted to exert pressure upon his Department. Various grievance redressal channels are available to employees for seeking an inter zonal transfer, however, he completely failed to make his efforts through proper channel. Further, the RPF is an armed organization in which an individual who lacks proper decision-making power can compromise with the safety and security of other members of the Force. This becomes more significant with the use of arms and ammunition. The members of the Force are required to act promptly, and judiciously in the matters relating to the Force. However, the charged Constable failed on all such accounts through his actions. However, his repeated attempts to commit suicide have adversely affected the morale of the Force and have brought disrepute to the image of the Force. Every member of the Force is required

to remain mentally and physically healthy/fit to perform his duties. However, considering the attempts of the charged Constable to commit suicide while on duty and his repeated conduct in relation to his zonal transfer, it appears that the charged Constable is not healthy/fit to discharge his duties properly. On the date 18/09/2020, the charged Constable sent a suicide note through e-mail to the Director General, New Delhi, wherein the charged Constable complained against Constable Shashi Jaiswal, posted in the office of the Principal Chief Security Commissioner, Mumbai, alleging that he demanded Rs.1,50,000/- for effecting his transfer. In this regard, the charged Constable took such step without producing proper evidences and merely on inflammatory bases and causing removal of another member of the Force from the Force. Considering the seriousness of the allegations made by the charged Constable against another Force member, it is evident that he failed to produce any supporting documentary evidence. However, other Force member produced the details of the call records, which has proved the charges leveled against him.

The charged Constable did not comply with the instructions in the letter No. PCSC/E-I/ Staff Grievances, dated 12/08/2020 of the Headquarter and on the date 22/09/2020 went to the office of the Principal Chief Security Commissioner, Mumbai, without permission and orders of the higher officials. Whereas, under Rule 146.1 of the RPF Rules, it is mandatory for all the members of the Force, irrespective of rank and duty, to adhere to standard codes of conduct. However, the charged Force member went to the Headquarter without permission. During the departmental Enquiry conducted by the Enquiry Officer, the prosecution witness No.08 confirmed the said fact.

During the enquiry conducted by the Preliminary Enquiry Officer, the charged Force member clearly admitted in his statement dated 07/10/2020 that he had got the medical certificate dated 22/02/2020, issued by the Medical Superintendent, Igatpuri, typed from a Cyber Cafe (internet). He further recommended for 'continuously taking care of parents'. However, vide certificate dated 05/10/2020, Shri Vijaykant, the prosecution witness No.05 certified that the certificate dated 22/02/2020 issued to Shri Brijesh Kumar, Constable UIN No.0945924, Igatpuri certifying therein that he is suffering from allergy for 04 years, is not proper, as no such certificate was issued from the M. S. Office, Igatpuri. Hence, the certificate issued shall be treated as invalid. It is apparent from the same that the charged Constable tampered with the government document, misled the Administration and submitted false document with regard to the treatment of his daughter to the Administration. This must be viewed very seriously as it reflects a case of forgery of a government document. Being a Force member, he misused his position as the member of the Force for his self-interest, which stands proved as violation of Rules 146.1, 146.2(i), 146.3, 146.7(iii), 147(i), (ii), (iii), (viii) of the RPF Rules, 1987 and Rules 3(iii) and (xix) of the Railway Services (Conduct) Rules, 1966.

During the enquiry, the Enquiry Officer provided all reasonable opportunities to the charged Force member in his defence and the Enquiry Officer has reached to his conclusion regarding the charges leveled against him only after establishing beyond reasonable doubt, sufficient evidence, substantiated by circumstantial, corroborative, and physical evidence derived from the statements of prosecution witnesses.

I, the undersigned after carefully examining the entire DAR case file and considering the departmental enquiry conducted by the Enquiry Officer and after deeply studying the reply to the Show Cause Notice and the documents/statements of witnesses available during the departmental enquiry, I hold the charged Constable guilty of the charges leveled against him and for this misconduct, in accordance with the Rule 148.2 (d) of the RPF Rules, I hereby award him with the punishment- ' Award of the Punishment of

Reduction to the lowest stage in level-3 i.e. Rs.21,700/-for a period of 05 Years with cumulative effect’.

You can preferred an appeal under Rule 212 of the RPF Rules, 1987 against the above-mentioned order, before the Principal Chief Security Commissioner/RPF/Mumbai within 30 days from the date of receipt of this order.

Order dated 16th August 2021 passed by Respondent No.4

The Appellant Constable has raised the following points in his appeal: Point No.01: The Appellant Constable stated that if the Enquiry Officer had provided him with the requested CDR, it would have become clear that the former PCSC Pathak Sir had directed him on 24/07/2020 at 11:30 am to speak to HC Shashi Jaiswal regarding the transfer. In that regard, he stated that at that time, he had informed Sir that HC Jaiswal's conduct was not good. Further, he has stated about the correspondence made with the Headquarter and the Railway Board regarding his zone transfer, wherein he had stated about the conversation he had with the Inspector General and Head Constable Shashi Jaiswal, posted at the Headquarter. He further stated that the reason the zone transfer application was not forwarded to the Headquarters by Shashi Jaiswal is that Shashi Jaiswal had demanded Rs.1,50,000/- for forwarding his application and the Inspector General deliberately rejected his application. As a result thereof, he got stressed and consumed poison. He further stated that he did not tarnish the image of the Force, but the Inspector General Shri Atul Pathak and Shri Shashi Jaiswal have tarnished it. Nothing else was stated.

His statements are not logical. In the Appeal, the Appellant Constable attempted to evade his responsibilities. However, the charges leveled against the Appellant Constable are very serious. The Railway Protection Force is an organisation of the armed force, wherein it is mandatory to maintain discipline. However, the indiscipline committed by the charged Constable needs to be taken very seriously. However, the act committed by the charged Constable is highly condemnable. By his such kind of act, he violated the rules of the RPF Rules, 1987. Before the charge-sheet was issued to him, the Assistant Security Commissioner, RPF, Mumbai conducted enquiry of the complaint received regarding Shashi Jaiswal demanding money, which was found to be completely false. It is apparent from the same that the Appellant Constable is making false complaint against other Force members posted in the Force and thereby tarnishing the image of the Force. During the departmental enquiry conducted by the Enquiry Officer, the charge leveled against him is found to be proved and on the basis thereof, he was awarded the punishment. The rules are not violated in any manner.

Point No.02: The Appellant Constable stated that on the basis of the reply and the documents submitted to the Enquiry Officer, the Inspector, KalyanLOCO, presently the Inspector, Chalisgaon Bhusawal Division and ASC/KYN, it is well known that on the date 22/09/2020, he went to the PCSC office to get an RTI application acknowledged. He stated that the RTI Act has been enacted by the Government of India to expose corruption in any department. As per rules, any citizen can submit an RTI application to the concerned department either by post or by visiting personally. Therefore, it was not necessary to take permission from the Sr. DSC just to get an RTI application acknowledged at the PCSC office. Nothing else was stated. His statements are not logical. The Appellant Constable attempted to evade his responsibilities. However, the charges leveled against the Appellant Constable are very serious. The Railway Protection Force is an organisation of the armed force, wherein it is mandatory to maintain discipline. However, the indiscipline committed by the charged constable needs to be taken very

seriously. However, the act committed by the charged Constable is highly condemnable. While being posted in the Force, he neglected the orders given by the Headquarters, which is highly condemnable and cannot be overlooked under any circumstances. The Appellant Constable violated the rules of the RPF Rules 1987 by his act. He failed to comply with (the instructions of) the Headquarter's letter No. PCSC/E-I/Staff Grievances dated 12/08/2020 and visited the office of the Principal Chief Security Commissioner, Mumbai on 22/09/2020 without the permission or orders of the higher officials. Whereas, under Rule 146.1 of the RPF Rules, it is mandatory for all the members of the Force, irrespective of rank and duty, to adhere to standard codes of conduct. However, the charged Force member went to the Headquarters without permission. During the departmental inquiry conducted by the Enquiry Officer, the prosecution witness No.08 confirmed the same.

Point No.03: In his statement given before the Enquiry Officer on the date 09/.../2020, the Appellant Constable stated that Vijay Kant, the Railway Doctor stated that his daughter was suffering from Asthama and she was even treated for the same. Therefore, the medical certificate issued to him has been treated invalid. It is clear from the documents submitted by him before the Enquiry Officer and ASC/KYN that the Director General has transferred any Constable to the zone by not looking at the letter-head in the medical certificate issued by the Railway Doctor, but only by looking at 'Child comes under the category of care giver' in the medical certificate issued by the Railway Doctor. He reiterated the same things again and again, mislead the Administration and attempted to evade from his responsibilities, which is not just and proper. Nothing else was stated.

His statements are not logical. During the inquiry conducted by the Preliminary Enquiry Officer, the charged Force member clearly admitted in his statement dated 07/10/2020 that he had got the medical certificate dated 22/02/2020, issued by the Medical Superintendent, Igatpuri, typed from a Cyber Cafe (internet). He further recommended for 'continuously taking care of parents'. However, Shri Vijaykant, the prosecution witness No.05 vide certificate dated 05/10/2020 certified that the certificate dated 22/02/2020 issued to Shri Brijesh Kumar, Constable UIN No.0945924, Igatpuri certifying therein that he is suffering from allergy for 04 years, is not proper, as such certificate was not issued from the M. S. Office, Igatpuri. Hence, the certificate issued shall be treated as invalid. It is apparent from the same that the charged Constable tampered with the government document, misled the Administration and submitted false document with regard to the treatment of his daughter to the Administration. This must be viewed very seriously as it reflects a case of forgery of a government document. Being a Force member, he misused his position as the member of the Force for his self-interest, which stands proved as violation of Rules 146.1, 146.2(i), 146.3, 146.7(iii), 147(i), (ii), (iii), (viii) of the RPF Rules, 1987 and Rules 3(iii) and (xix) of the Railway Services (Conduct) Rules, 1966. After attempting suicide on the date 25/07/2020, the charged Constable on the date 18/09/2020, sent a complaint through an e-mail to the Director General, RPF, New Delhi, threatening to commit suicide. It is apparent from the same that the charged Constable attempted to exert pressure upon his Department. Various grievance redressal channels are available to employees for seeking an inter zonal transfer, however, he completely failed to make his efforts through proper channel. Further, the RPF Union is an armed organization in which an individual who lacks proper decision-making power can compromise with the safety and security of other members of the Force. This becomes more significant with the use of arms and ammunition. The members of the Force are required to act promptly, and judiciously in the matters relating to the Force. However, the charged Constable failed on all such accounts through his actions. However, his repeated attempts to commit suicide have adversely affected the morale of the Force and

have brought disrepute to the image of the Force. Every member of the Force is required to remain mentally and physically healthy/fit to perform his duties. However, considering the attempts of the charged Constable to commit suicide while on duty and his repeated conduct in relation to his zonal transfer, it appears that the charged Constable is not healthy/fit to discharge his duties properly.

Point No.04: The Appellant Constable stated that according to the letter dated 22/04/2020 issued by the Railway Board, after checking the medical certificate only to the effect 'Child care giver' issued by the Railway Doctor, the former Principal Chief Security Commissioner, Central Railway, citing 3.2(5) of Para 04 of the Establishment Manual, rejected his application, whereas the DG has the right to handle zonal transfers. He further stated that in the medical certificate of the children of other constables reflecting 'Child comes under the category of care giver', all of them have been transferred by the DG, but when he applied to meet the DG personally regarding his zonal transfer, his application was rejected by stating that he was unfit for the zonal transfer. He further attempted to reiterate the same things again and again. Nothing else was stated.

His statements are not logical. During the inquiry conducted by the Preliminary Enquiry Officer, the charged Force member clearly admitted in his statement dated 07/10/2020 that he had got the medical certificate dated 22/02/2020, issued by the Medical Superintendent, Igatpuri, typed from a Cyber Cafe (internet). He further recommended for 'continuously taking care of parents'. However, Shri Vijaykant, the prosecution witness No.05 vide certificate dated 05/10/2020 certified that the certificate dated 22/02/2020 issued to Shri Brijesh Kumar, Constable UIN No.0945924, Igatpuri certifying therein that he is suffering from allergy for 04 years, is not proper, as such certificate was not issued from the M. S. Office, Igatpuri. Hence, the certificate issued shall be treated as invalid. It is apparent from the same that the charged Constable tampered with the government document, misled the Administration and submitted false document with regard to the treatment of his daughter to the Administration. This must be viewed very seriously as it reflects a case of forgery of a government document. Being a Force member, he misused his position as the member of the Force for his self-interest, which stands proved as violation of Rules 146.1, 146.2(i), 146.3, 146.7(iii), 147(i), (ii), (iii), (viii) of the RPF Rules, 1987 and Rules 3(iii) and (xix) of the Railway Services (Conduct) Rules, 1966. After attempting suicide on the date 25/07/2020, the charged Constable on the date 18/09/2020, sent a complaint through an e-mail to the Director General, RPF, New Delhi, threatening to commit suicide. It is apparent from the same that the charged Constable attempted to exert pressure upon his Department. Various grievance redressal channels are available to employees for seeking an inter zonal transfer, however, he completely failed to make his efforts through proper channel. Further, the RPF Union is an armed organization in which an individual who lacks proper decision-making power can compromise with the safety and security of other members of the Force. This becomes more significant with the use of arms and ammunition. The members of the Force are required to act promptly, and judiciously in the matters relating to the Force. However, the charged Constable failed on all such accounts through his actions. However, his repeated attempts to commit suicide have adversely affected the morale of the Force and have brought disrepute to the image of the Force. Every member of the Force is required to remain mentally and physically healthy/fit to perform his duties. However, considering the attempts of the charged Constable to commit suicide while on duty and his repeated conduct in relation to his zonal transfer, it appears that the charged Constable is not healthy/fit to discharge his duties properly

Point No.05: The Appellant Constable repeated the points mentioned in Point No.01 to

Point No.04. Finally, he requested that the punishment awarded to him be stayed. Nothing else was stated.

His statements are not logical. After taking into consideration the departmental enquiry conducted by the Enquiry Officer in the matter of the charge sheet issued in the case and the entire DAR case file thoroughly, the punishment was awarded to him. The rules have not been violated in any manner. The entire DAR case file and the documents available were deeply scrutinized. The Appellant has not presented any new facts in his appeal. No rules have been violated in any manner nor any irregularities were found during the departmental enquiry. The Disciplinary Authority has awarded him appropriate punishment in the matter, hence, the appeal is dismissed.

If you wish, you can prefer a Revision Appeal under Rule 219 of the Railway Protection Force Rules against the aforesaid order in the appeal before the Chief Security Commissioner, Railway Protection Force, C S M T, Mumbai, through proper channel, within 30 days of receipt of the order.

Order dated 27th December 2021 passed by Respondent No.3

I have carefully gone through the revision petition, the proceeding file and other relevant records. On the analysis of the case, it is observed that the disciplinary authority has issued a detailed order mentioning the reason for imposing the punishment. RPF is an Armed Force of the Union. Discipline is of paramount importance for all members of the force. As a member of the uniformed Force, it is of utmost importance that he should maintain discipline in the Force. Due procedure was followed in the disciplinary proceeding. He has not brought out any new point in his revision petition. The power of revision is normally exercised only when there is material irregularity, injustice or when new facts are brought on record, which is not there in the revision petition.

In view of the above, I do not find any reason to interfere with it and the revision petition is therefore rejected.

(Emphasis supplied)

12. We are further of the view that it is not the Petitioner's case that the findings recorded in the departmental inquiry and the subsequent orders dated 30th April 2021, 16th August 2021 and 27th December 2021 passed by Respondent Nos. 3 to 5 have been passed in the absence of any evidence on record. In fact, on a perusal of the charges as reproduced above and also the relevant findings as rendered in the orders dated 30th April 2021, 16th August 2021 and 27th December 2021, it is clear that the misconduct of the Petitioner is established on the basis of evidence led before the fact-finding bodies. Therefore, no fault can be found in respect of the findings as rendered by the Respondent Nos. 3 to 5 by the aforesaid orders.

13. Considering the aforesaid concurrent findings of fact and also that the Petitioner has indeed breached the RPF Rules, we have no hesitation in holding that the present petition deserves to be dismissed. In the present proceedings, we cannot re-appreciate evidence to record a different finding of fact. The Petitioner has not made out any case to assail the three impugned orders giving concurrent findings against the Petitioner by Respondent nos.3, 4 and 5 respectively, to hold that the Petitioner is guilty of the misconduct. The view taken by the disciplinary authority rightly applies the test of preponderance of

probabilities. It is not an impossible but plausible view when tested on facts. We are therefore of the view that the present petition deserves to be dismissed.

14. In view thereof, we are also of the view that over and above the clear findings of fact in the present case which establish the misconduct on the part of the present Petitioner, the position of a person serving in any armed or police force requires a higher sense of responsibility and mental makeup, inasmuch as, the faith reposed by common citizens on 'men in uniform' is far higher, and they are looked upon as sentinels of the society at large. Our, this view gets fortified by the decision of the Supreme Court in *Union of India Vs. Diler Singh*¹, wherein the Respondent-Employee was a constable in CRPF, and was served with a charge-sheet alleging that that on the mentioned date, he had left the campus without permission of the competent authority, gone to the bazaar, consumed liquor and quarrelled with the local persons there. The Supreme Court, in the above factual context had held that that when a member of the disciplined force deviates to such an extent from discipline and behaves in an untoward manner which is not conceived of, it is difficult to hold that the punishment of dismissal as has been imposed is disproportionate and shocking to the judicial conscience. The Supreme Court therefore upheld the order of removal of service of the Respondent-Employee. Relevant paragraphs of the aforesaid decision are reproduced below:-

26. We are inclined to think so as a member of the disciplined force, the respondent was expected to follow the rules, have control over his mind and passion, guard his instincts and feelings and not allow his feelings to fly in fancy. It is not a mild deviation which human nature would grant some kind of lenience. It is a conduct in public which has compelled the authority to think and, rightly so, that the behaviour is totally undisciplined. The respondent, if we allow ourselves to say so, has given indecent burial to self-control, diligence and strength of will power. A disciplined man is expected, to quote a few lines from Mathew Arnold

"We cannot kindle when we will The fire which in the heart resides, The spirit bloweth and is still, In mystery our soul abides:

But tasks in hours of insight will'd Can be through hours of gloom fulfill'd."

15. Further, the Supreme Court has, in the case of *State of U.P. v. Ashok Kumar Singh*², elaborated on how serving in disciplined forces demands strict adherence to the rules and procedures more than any other department. The Respondent-Employee in the aforesaid case was removed from service on the pretext of being absent from service on several occasions. The Respondent-Employee had challenged the order of removal from service before the U.P. Public Services Tribunal, which had upheld the order of removal. The Respondent-Employee subsequently challenged the same before the Allahabad High Court, which had quashed the order of dismissal of the Respondent-Employee on the ground that being absent from duty would not amount to such a grave charge so as to warrant his dismissal. The Supreme Court had however set aside the order of the High Court and held that the High Court had exceeded its jurisdiction in quashing

the order of removal, and that no interreference was required with the order of removal from service. Relevant paragraphs of the aforesaid decision of the Supreme Court are reproduced below:-

8. We are clearly of the opinion that the High Court has exceeded its jurisdiction in modifying the punishment while concurring with the findings of the Tribunal on facts. The High Court failed to bear in mind that the first respondent was a police constable and was serving in a disciplined force demanding strict adherence to the rules and procedures more than any other department. Having noticed the fact that the first respondent has absented himself from duty without leave on several occasions, we are unable to appreciate the High Court's observation that "his absence from duty would not amount to such a grave charge". Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that "the punishment does not commensurate with the gravity of the charge" especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out.

16. Considering the facts of the present case and the clear position in law, the present petition is devoid of merits. It is accordingly dismissed. Rule stands discharged. No costs.

FOOTNOTES

1. 2016 (13) SCC 71
2. (1996) 1 SCC 302