

(2004) 06 J&K CK 0016

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 494 of 2000

Rattan Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 10-06-2004

Acts Referred:

Central Reserve Police Force Act, 1949 — Section 11
Central Reserve Police Force Rules, 1955 — Rule 69
Constitution of India, 1950 — Article 226

Citation : (2010) 3 JKJ 910

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Anil Mahajan, for the Appellant; Romesh Arora, Addl. CGSC, for the Respondent

Judgement

V.K. Jhanji, J.—Petitioner, in this writ petition filed under Article 226 of the Constitution of India read with Section 103 of the Constitution

of Jammu and Kashmir, is seeking writ in the nature of Certiorari:-

(i) quashing office order No. P.Viii-13/97-EC-2-50 dated 1.3.1999 passed by the Commandant-respondent No. 4, whereby the petitioner has

been awarded punishment of dismissal from service.

(ii) Quashing Order No. R-Xiii-5/99-EC-III dated 24.6.99 passed by the Deputy Inspector General of Police Respondent No. 3, whereby appeal

of the petitioner has been dismissed and punishment awarded by the respondent No. 4 has been upheld.

(iii) Quashing Order No. R-13-8/98-Prasha. A dated 17.12.1999 passed by the Inspector General of Police Respondent No. 2.

(iv) Quashing order No. P.Viii-II/97-EC-II-50 dated 5.9.97 passed by the Commandant Respondent No. 2 whereby the petitioner has been

reverted from the rank of L/Nk to the rank of Cadet (GD) w.e.f. 5.9.97 till further orders, and

(v) quashing Order No. R-13-5/98-STO-3 dated 16.10.99 passed by the Deputy Inspector General of Police Respondent No. 3, whereby,

appeal of the petitioner against reversion has been rejected.

2. In addition to the above, petitioner has prayed for a writ of Mandamus directing the respondents to reinstate the petitioner with original number

and designation of L/NK alongwith all back wages, increments, benefits etc. and to treat him as on duty.

3. In brief, case of the petitioner is that while working as L/NK with the Central Reserve Police Force, he, vide order dated 4.10.1997, was

placed under suspension. Vide order dated 14.2.1998 memorandum was issued to him for holding an inquiry. Shri Vivek Chaturvedi, Deputy

Commandant 50 Bn CRPF was appointed as an Inquiry Officer to inquire into the charges framed against the petitioner. Further, according to the

petitioner, he denied all the charges but the Inquiry Officer without allowing petitioner to fully participate and cross examine the witnesses as well as

to summon his witnesses and without following the rules and the law submitted Inquiry Report dated 7.1.1999, holding Charge No. 1 as not

proved and Charges No. 2 and 3 as proved. Against Inquiry Report petitioner submitted objections in detail to Commandant, 50 Bn CRPF, who

without considering the same has passed order dated 1.3.1999 imposing punishment of dismissal from service, against the petitioner. According to

petitioner, he preferred an appeal under rules to Appellate Authority, i.e. Deputy Inspector General CRPF, who vide order dated 24.6.1999

dismissed the appeal and upheld the punishment awarded against the petitioner. Further appeal against the orders dated 24.6.1999 and 1.3.1999

was preferred by the petitioner before the Inspector General of Police North Eastern Sector CRPF Shillong, who vide order dated 17.12.1999

rejected the same. Further case of the petitioner is that Commandant 50 Bn CRPF, has passed order dated 5.9.1997, whereby petitioner has

been reverted from the rank of L/NK to the rank of Cadet (GD) w.e.f. 5.9.1997 till further orders and against this order dated 5.9.1997 passed

by the Commandant an appeal was filed by the petitioner before respondent No. 2, who vide order dated 16.10.1999 dismissed the same.

4. Petitioner, in this writ petition, has challenged all the aforesaid orders on the ground that the Inquiry Officer did not conduct the inquiry in proper

manner inasmuch as the inquiry officer was requested by the petitioner to record the proceedings in Hindi, the only language known to the

petitioner, but without following the procedure the Inquiry Officer recorded the proceedings in English, the language not known to the petitioner,

and he was made to sign the proceedings. According to the petitioner, in not recording the proceedings in Hindi language and not providing copies

of the documents in Hindi, resulted in miscarriage of justice. Further according to him, petitioner was not afforded assistance of any person in the

inquiry proceedings nor was he allowed to take assistance, which is the mandatory requirement of law. Further case of the petitioner is that the

Inquiry Officer has not summoned the witnesses, the list of which was filed by the petitioner, but the Inquiry Officer only recorded the statements of

two witnesses. The Inquiry Officer did not give any reasons for not summoning the remaining witnesses, whose names and addresses were given

by the petitioner vide his communication dated 3.10.1998. According to the petitioner, statements of Smt. Brijesh Kumari and Shri Boney Singh

have not been considered either by the Inquiry Officer, or by the Disciplinary Authority, Appellate Authority or by the Revisional Authority.

According to him, this being a case of no evidence, orders impugned in the writ petition are liable to be quashed.

5. On the other hand, the case of the respondents is that vide Memorandum dated 14.2.1998, departmental inquiry was initiated against the

petitioner in regard to following charges:-

(i) that while functioning as L/NK, petitioner committed an act of gross misconduct, dereliction and remissness by contracting second marriage with

Lavita Nath, daughter of Shri Mahesh Nath resident of Basugaon, whereas he had already one wife namely Smt. Brijesh Kumari, as per entries in

his service book.

(ii) That without prior permission of the competent authority, petitioner kept his second wife outside the Campus of F/50 Bn CRPF at Dhaligaon.

(iii) That he deserted from the Campus on 9.9.1997 at about 11.00 hours and reported back on his own on 2.10.1997 at about 0920 hours

before execution of warrant of arrest issued against him on 11.9.1997. He again

deserted from HQ/50 Bn CRPF on 17.10.97 at about 2100

hours without any information in total disregard to existing departmental instructions and in contravention to the orders in vogue. Later on, he

reported back at Bn HQs/HQ-50 Bn CRPF on 21.1.98 at about 1245 hours at his own.

6. Respondents have further stated that Inquiry Officer after conducting the inquiry submitted the Inquiry Report, copy whereof was provided to

the petitioner. The enquiry officer held Charge No. 1 as not proved due to lack of evidence, Charge No. 2 was held as proved to the extent that

petitioner was living with a lady who was not his legally wedded wife and Charge No. 3 that petitioner deserted from the Campus on two

occasions, was also held to be proved.

7. The Inquiry Officer in his report has recorded that since the very beginning of the Disciplinary Enquiry, attitude of the delinquent remained very

inimical and negative towards superior officers. He made false allegations against the then Officer Commanding, F Coy 50 Bn CRPF, DIGP

CRPF Kohima, IGP NES CRPF Shillong and Inquiry Officer. During the progress of Disciplinary Enquiry petitioner made correspondence

directly with higher offices including the office of the Prime Minister of India by-passing all the channels complaining against the DIGP, C.R.P.F.

Kohima and the IGP NES CRPF Shillong, whereby he tried to influence the outcome of the Disciplinary Enquiry. Respondents state that petitioner

tried to delay the Disciplinary Enquiry proceedings by reporting that he had lost all documents relating to the enquiry and thereby demanded for

copies of some documents, which were later given to him. At a later stage of the enquiry proceedings, he insisted to conduct the Disciplinary

enquiry in Hindi alleging that he found it difficult to follow English whereas he made no such request when the disciplinary enquiry commenced.

'Further, according to respondents, the Disciplinary Authority examined the Disciplinary Enquiry proceedings thoroughly and after a detailed

discussion on each article of charge, final order was passed by the disciplinary authority. Respondents have denied the allegation of the petitioner

that Inquiry Officer did not give proper opportunity. According to respondents, petitioner was ""provided ample opportunity to defend himself and

statement of prosecution witnesses were recorded on day to day basis and in the

presence of the petitioner. Further according to respondents, petitioner was provided a copy of the statement of each and every prosecution witnesses and the signature of the petitioner was obtained at the end of the statement of each prosecution witnesses confirming that the same has been received by him. He was given ample opportunity to cross examine every witness but he cross examined only two out of eleven prosecution witnesses. Respondents have stated that after recording the second plea of 'guilty/not guilty', petitioner was directed to submit his written statement and list of defence witnesses, if any, and petitioner submitted a defence statement containing 32 pages alongwith an application and documentary exhibits. Thereafter, he was re-examined by the Inquiry Officer and accordingly departmental enquiry was closed after examining the defence witnesses produced by the petitioner. Further, according to respondents, not only the inquiry report is based on the evidence on record, but the order passed thereon is also based on misconduct proved against the petitioner.

8. In precise the case of the respondents, as pleaded in their counter, is that CRPF being a disciplined force, the Force personnel are bound to act according to rules. On receipt of application seeking permission to stay with family, an office order is issued quoting terms and conditions for keeping family at the place of posting, which includes that the family of the incumbent should not interfere with the duties. According to respondents, it is only after issuance of such an office order that the Force personnel bring their families and keep them outside the Campus near to place of posting, Respondents further submit that there are certain restrictions in keeping families of personnel in disturbed areas of Assam as CRPF personnel and their families are frequently attacked by extremists. In so far as the petitioner is concerned, respondents submit that he without any order or prior permission in writing, kept one lady with him in Assam which was a serious offence on the part of the petitioner. In fact, CRPF personnel are required to abide by the Rules strictly. Respondents further state that it has amply been proved that the petitioner has fraudulently sought permission to stay with a lady, who was not his legally wedded wife. This was established by more than two witnesses. Initially the petitioner had introduced the lady as maid servant and later confessed

having married her. It is stated that petitioner in his statement dated 5.9.1997 recorded during the course of inquiry, confessed having contracted a second marriage with Lavitha Nath, i.e., the lady with whom he was living. Respondents further submit that though Smt. Brijesh Kumari, the legally married wife of the petitioner has stated that she had stayed at Dhaligaon from 1.9.1997 onwards and used to go to F/50 camp to provide food while her husband was kept in captivity there, but witness No. 6 SI D.RMishra, who was always present in F/50 Bn, never saw her coming to F/50 camp. In addition to this, PW 11 HC Sache Lal, who was guard Commander and in whose custody the petitioner was given on 9.9.97, in cross examination stated that he had seen one lady alongwith a little girl coming to F/50 Bn, and after sometime the little girl came alone to enquire about the petitioner, who by then had deserted. The said little girl was the sister of Miss Lavita Nath, who had come to see her but by then the petitioner had deserted with Lavita Nath and, therefore, as per the respondents, the testimony of Mrs. Brijesh Kumari does not hold any ground. Respondents further submit that enquiry against the petitioner was held in accordance with the procedure and the law and, therefore, the orders impugned are not liable to be interfered With.

9. I have heard learned counsel for the parties and have carefully gone through the. record of the case.

10. The first submission of learned counsel for the petitioner is that order dismissing petitioner from service has been passed by Commandant in exercise of power vested in him u/s 11 of the CRPF Act, 1949, (hereinafter referred to as 'The Act'), under which no major penalty of dismissal from service could have been imposed upon the petitioner as provisions of Section 11 relates only to minor punishments, the nature of which are set out in clauses (a) to (e) of Section 11. According to learned counsel, dismissal from service is not included in clauses (a) to (e) and, therefore, order of dismissal of the petitioner is void ab initio.

11. Section 9 to 14 of the Act deal with offences and punishments which may be imposed upon a member of the Force. Section 9 deals with more heinous offences which have been categorized in Clauses (a) to (1) and are punishable with transportation for life for a term of not less than seven years or with imprisonment for a term which may extend to fourteen years or

with fine which may extend to three months' pay or with fine to that extent in addition to such sentence of transportation or imprisonment. Section 10 deals with less heinous offences, which have been categorized in clauses (a) to (p) and have been made punishable with imprisonment for a term which may extend to one year or with fine which may extend to three months' pay or with both. Section 11 and 12 of the Act, which are relevant for the purpose of present case deals with minor punishments and place of imprisonment and liability to dismissal or imprisonment, respectively. Both the sections read as under:-

11. MINOR PUNISHMENTS. -(I)The Commandant or any other authority or officer as may be prescribed may, subject to any rules made

under this Act, award in lieu of, or in addition to, suspension or dismissal any one or more of the following punishments to any member of the

Force whom he considers to be guilty of disobedience, neglect of duty, or remissness in the discharge of any duty or of other misconduct in his

capacity as a member of the Force, that is to say,-

- (a) reduction in rank,
- (b) fine of any amount not exceeding one month's pay and allowances,
- (c) confinement to quarters, lines or camp for a term not exceeding one month,
- (d) confinement in the quarter-guard for not more than twenty-eight days, with or without punishment drill or extra guard, fatigue or other duty; and
- (e) removal from any office of distinction or special emolument in the Force.

(2) Any punishment specified in clause (c) or clause(d) or sub section (1) may be awarded by any gazetted officer when in command of any

detachment of the Force away from headquarters, provided he is specifically authorized in this behalf by the Commandant.

(3) The Assistant Commandant, a company officer or subordinate officer, not being below the rank of subedar or Inspector, commanding a

separate detachment or an outpost, or in temporary command at the headquarters of the Force, may, without a formal trial, award to any member

of the Force who is for the time being subject to his authority any one or more of the following punishment for the commission of any petty offence

against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to require prosecution before a

criminal court, that is to say, -

(a) confinement for not more than seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and

allowances during its continuance;

(b) punishment drill, or extra guard, fatigue or other duty, for not more than thirty days with or without confinement to quarters, lines or camp;

(c) censure or severe censure;

Provided that this punishment may be awarded to a subordinate officer only by the Commandant.

(4) A Jamadar or Sub Inspector who is temporarily in command of a detachment or an outpost may, in like manner and for the commission of any

like offence, award to any member of the Force, for the time being subject to his authority any of the punishments specified in clause (b) of sub-

section (3) for not more than fifteen days.

12. PLACE OF IMPRISONMENT AND LIABILITY TO DISMISSAL ON IMPRISONMENT. - (1) Every person sentenced under this Act

to imprisonment may be dismissed from the Force, and shall further be liable to forfeiture of pay, allowances and any other moneys due to him as

well as of any medals and decorations received by him.

(2) Every such person shall, if he is to be dismissed, be imprisoned in the prescribed prison, but if he is not also dismissed from the Force, he may, if

the Court or the Commandant so directs, be confined in the quarter-guard or such other place as the Court or the Commandant may consider

suitable.

12. The very contention of learned counsel for the petitioner that no punishment of dismissal from service could be passed u/s 11 of the Act, was

considered by this Court in Deen Dayal Yadav v. The Deputy Inspector General of Police CRPF, 1974 Labour & Industrial Cases, 929, and the

contention was rejected being not correct. It would be relevant to quote paragraph 12 of the judgment as under:-

12. The contention of the learned counsel for the petitioner that no punishment such as removal or dismissal from service could be passed, , does

not seem to be correct. I have already quoted the section above and it is significant to note that in this section the important words are ""in lieu of or

in addition to, suspension or dismissal any one or more of the following punishments to any member of the Force whom he considers...."" may be passed.

The words 'in lieu of or in addition to' in my opinion clearly indicate that in addition to the punishment of dismissal from service the punishments

prescribed in Section 11 could be passed or in lieu of a punishment for dismissal. It has also been urged that the punishment such as removal or

dismissal from the Force could be passed only u/s 12 which I have quoted above, but I think this contention also does not seem to be correct

because this section clearly lays down that if any person has been sentenced to imprisonment under the Act, then he can be dismissed and shall

also be liable to forfeiture of pay etc. The heading of the section also shows that it deals with 'place of imprisonment and liability to dismissal or

imprisonment'. In my opinion, it cannot be said that a punishment of removal or dismissal from Force can only be passed u/s 12 of the Act, i.e., to

say only when a person has been sentenced to imprisonment. I am strengthened in my view because a similar view has been taken by a Division

Bench of Rajasthan High Court in the case of Shyam Singh v. Deputy Inspector General of Police, Central Reserve Police, Ajmer, reported in

AIR 1965 Raj 140, where also it was held that from a perusal of Section 12 it is clear that the punishment of dismissal under the section may be

given to a delinquent in addition to the sentence of imprisonment awarded to him under the law. If the authorities mean to proceed under the

Section, it will not be necessary to observe the formalities of a regular disciplinary inquiry and action may be taken up after a person's conviction

and punishment of imprisonment under the Act. It has also been further held that section 12 does not lay down that a person could not be liable to

dismissal if he is not convicted or sentenced under the Act. Similarly, with regard to section 11 it was held that the words 'in lieu of or 'in addition

to suspension or dismissal' appearing in sub-section (1) of Section 11 before cls. (a) to (e) show that the authorities mentioned therein are

empowered to award punishment of dismissal or suspension to the member of the Force who is found guilty and in addition to, or in lieu thereof,

the minor punishments mentioned in clauses (a) to (e) may also be awarded. It was also held that a perusal of sections 9, 10 and 11 would clearly

show that a delinquent can be punished with dismissal even if he has not been prosecuted for an offence u/s 9 or 10 of the Act. I am therefore, of

opinion that the Deputy Inspector General of Police u/s 11 of the Act read with Rule 27 of the Rules could impose a punishment of dismissal or

removal from, service.

13. The words 'in lieu of or 'in addition to suspension or dismissal' appearing in sub-section (1) of Section 11 before clauses (a) to (e) also came

up for consideration before the Delhi High Court in Ram Bihari Shukla v. Union of India and Ors., C.W. No. 3920 of 1999, decided on

6.12.2001, wherein the writ Court held that the heading 'Minor Punishments' in Section 11 is a misnomer. It was observed that "" it is established

rule of interpretation that although such heading may be looked into for interpreting a section, the words of which admit of any reasonable doubt, it

cannot be taken to restrict the plain terms of the Section. A proper reading of the aforesaid Sections 9 10 and 11 would clearly show that a

delinquent person can be punished with dismissal even if he has not been prosecuted for an offence Under Sections 9 or 10 of the Act.

14. For coming to the aforesaid conclusion the Delhi High Court took support from the decision of this Court in Deen Dayal Yadav v. The Deputy

Inspector General of Police CRPF (Supra), Shyam Singh v. Deputy Inspector General of Police, CRPF, Ajmer and Ors., AIR 1965 Rajasthan

140 and the decision of Allahabad High Court in Special Appeal No. 201 of 1993, Dy. Inspector General of Police, CRPF (Rampur U.P.) &

another v. Munna Singh Yadav, decided on 6.10.2001.

15. The judgment of Gauhati High Court in Deep Chand v. Union of India 2001 (4) S C T 965, cited by learned counsel for the petitioner is of no

help to him, for the reason that in the case cited, the words 'in lieu of or in addition to suspension or dismissal' appearing in sub-section (1) of

Section 11 before clauses (a) to (e), were not considered.

16. The first contention of the learned counsel for the petitioner that for imposing penalty of dismissal from service provisions of Section 11 of the

Act cannot be made applicable is thus without any merit.

17. Learned counsel for the petitioner next contended that there has been violation of the rules of natural justice in conducting the inquiry. He

further contended that the inquiry officer has not correctly appreciated the

evidence brought on record and, therefore, the conclusion arrived at by the Inquiry Officer requires to be set aside.

18. In order to appreciate the submission made by learned counsel for the petitioner I have examined the voluminous record of the inquiry file but am unable to agree with the submission made by learned counsel for the petitioner that evidence has not been correctly appreciated by the inquiry officer. Moreover, the adequacy or reliability of evidence is not a matter which can be permitted to be canvassed before this Court in writ proceedings. This Court in the proceedings under Article 226 of the Constitution of India read with Section 103 of the Constitution of Jammu & Kashmir, is only concerned to determine whether the inquiry against the delinquent has been held by the competent authority according to procedure in that behalf and whether rules of natural justice have not been violated.

19. The procedure to award major punishment of dismissal or removal from the Force is given in Rule 27 of the Central Reserve Police Force

Rules, 1955, (hereinafter referred to as 'the Rules'). This rule provides that the substance of the accusation shall be reduced to the form of a written

charge and shall be read out to the accused and a copy of it given to him at least 48 hours before the commencement of the enquiry. At the

commencement of the inquiry the accused shall be asked to enter a plea of "Guilty" or "not Guilty", after which evidence necessary to establish the

charge shall be let in. The evidence shall be material to the charge and may either be oral or documentary and if oral it shall be direct and recorded

by the Inquiry Officer in presence of the accused, who shall be allowed to cross examine the witnesses, if any examined. When documents are

relied upon in support of the charge, they shall be put in evidence as exhibits and the accused shall, before he is called upon to make his defence,

be allowed to inspect such exhibits. The accused shall then be reexamined and his statement recorded by the Inquiry Officer and if the accused has

pleaded guilty and does not challenge the evidence on record, the proceedings shall be closed for orders, If he pleads 'not guilty' he shall be

required to file a written statement and a list of such witnesses as he may wish to cite in his defence within such period, which shall in any case be

not less than a fortnight. In case the accused declines to file a written statement,

he shall again be examined by the inquiry officer on the expiry of the period allowed. If the accused refuses to cite any witnesses or to produce any evidence in his defence, the proceedings shall be closed for orders, but in case he produces any evidence the inquiry officer shall record the evidence and when all the relevant evidence has been brought on record, the proceedings shall be closed for orders. In case the Commandant himself has held the inquiry, he shall record his findings and pass orders, but if the enquiry has been held by any officer other than the Commandant, he shall forward his report together with the proceedings to the Commandant, who shall record his findings and pass orders, where he has power to do so.

20. On going through the record of the enquiry file I find that the procedure provided for the award of major punishment of dismissal or removal from the Force has been meticulously followed and, therefore, no grievance in this regard can be permitted to be urged on behalf of the petitioner.

21. Learned counsel appearing for the petitioner then contended that the petitioner has not been provided any opportunity of hearing before he came to be reverted from the rank of Lance Naik to the rank of Cadet (GD) by order dated 5.9.1997 passed by the Commandant and upheld by the Deputy Inspector General of Police, in appeal.

22. From reading of Rule 69 of the CRPF Rules, 1955, I find that for reverting a Lance Naik, there is no requirement of providing any opportunity of hearing or assigning of any reasons. Rule provides that a constable appointed to the rank of Lance Naik but found unsuitable for the rank may be summarily reverted to the rank of constable without assigning any reasons.

23. Mr Anil Mahajan, learned counsel for the petitioner, lastly contended that order dismissing the petitioner from the Force is liable to be quashed because while imposing one of the severest penalty, the punishing authority did not consider the unblemished 16 years service record of the petitioner. Learned counsel submitted that punishing authority has discretion to impose major as well as minor penalty and it is always not necessary to impose severe punishment of dismissal from service simply because charge is proved against the delinquent. He further submitted that in this case punishment of dismissal is very harsh.

24. On the other hand, Mr Romesh Arora, Addl. CGSC, contended that the doctrine

of proportionality should not be invoked in the present case

because the misconduct against the petitioner has been proved because of his desertion from the Force. He also contended that the discretion

exercised by the punishing authority to impose penalty of dismissal from service does not have any legal infirmity requiring any kind of interference

by this Court in the exercise of its extra-ordinary writ jurisdiction.

25. I have carefully considered the arguments advanced by the learned counsel on behalf of the respective parties and gone through the record of

the case.

26. First charge against the petitioner that during the subsistence of first marriage he had contracted second marriage with one Lavita Nath, was

not established. Second charge that he had kept his second wife outside the Campus without permission of the competent authority, was proved to

the extent that he did live with Lavita Nath (not proved to be his second wife) outside the Campus without permission. Third charge was that

petitioner had deserted from the Campus on two occasions, i.e. first from 9.9.1997 to 2.10.1997 and second time from 17.10.1997 to

21.1.1998. This charge has been proved but it has also come in evidence that before the execution of warrant of arrest, petitioner on his own

reported back. This clearly shows that petitioner never intended to desert the Force. On the date of dismissal, petitioner had already put in about

16 years uninterrupted service and during his service tenure, no other act of misconduct has been' attributed to him. The punishing authority while

awarding severe punishment of dismissal from the Force ought to have considered this aspect of the case and also the circumstances under which

petitioner was found guilty of grave misconduct of remaining absent from duty on two occasions. I am conscious of the law settled by the Supreme

Court that High Court should be loathe to interfere with the discretion exercised by disciplinary authority and the High Court should not normally

substitute its own conclusion on penalty and impose some other penalty. But at the same time, law is also that if the punishment imposed by the

disciplinary authority shocks the judicial conscious of the High Court, it would appropriately mould the relief, either directing the

disciplinary/appellate authority to re-consider the penalty imposed, or to shorten the litigation, it may itself in exceptional and rare cases impose

appropriate punishment. Reference in this regard be made to the cases of B.C. Chaturvedi Vs. Union of India and others, , Union of India and

another Vs. G. Ganayutham (Dead) by LRs., and Director General R.P.F. and Others Vs. Ch. Sai Babu, .

27. In view of the above conclusion and in the facts and circumstances of this case, I am of the view that keeping in view the unblemished service

record of 16 years of the petitioner, the appellate authority is required to re-consider the question of punishment to be imposed on the petitioner.

28. In the result, this writ petition is partly allowed. Order dated 1.3.1999 passed by the Commandant and as upheld in appeal by the DIG and

I.G.P. is upheld in so far as the finding of guilt is concerned. However, the matter in regard to quantum of punishment to be awarded to the

petitioner is remitted to the appellate authority namely, I.G.P.- respondent No. 2, who shall re-consider the question of punishment to be imposed

on the petitioner, keeping in view the observation made above. The consequential benefits, if any, to be allowed to the petitioner would depend

upon the result of the punishment which may be awarded to the petitioner after re-considering the matter. The whole exercise in this regard may be

completed within a period of three months from the date certified copy of the judgment is made available to I.G.P., respondent No. 2.

29. Writ petition stands disposed of in the manner indicated above.

30. No Costs.