
(2002) 02 P&H CK 0095

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14872 of 1993

S.I./Exe. Shaminder Singh

APPELLANT

Vs

Director General, Central Industrial Security Force, New Delhi
and Others

RESPONDENT

Date of Decision : 04-02-2002

Acts Referred:

Central Industrial Security Force Rules, 1969 — Rule 49(1)

Citation : (2002) 02 P&H CK 0095

Hon'ble Judges : Amar Dutt, J

Bench : Single Bench

Advocate : R.S. Bains, for the Appellant; S.K. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Amar Dutt, J.—The petitioner, who is working as a Sub-Inspector in the Central Industrial Security Force (hereinafter referred to as "the CISF") was charge sheeted on 21st of September, 1990 on two grounds, namely, himself consuming liquor and allowing a civilian to consume liquor at the main gate and criminally assaulting a Constable.

2. After completion of the enquiry, only charge No. 2 was found to be proved and the punishing authority imposed the penalty of "reduction of pay by three stages for a period of one year with cumulative effect. This period of one year will not earn for future increments". Though the petitioner did not file an appeal yet the matter was taken up by the Deputy Inspector General, CISF, North East Zone Headquarters, Patna, in exercise of the powers conferred on him by Sub-rule (1) and (2) of Rule 49 of the Central Industrial Security Force Rules, 1969 (hereinafter referred to as "the Rules") and he had, on 14th of November, 1991 called upon the petitioner to show cause as to why the penalty imposed on him should not be enhanced to reduction of pay to the lowest time scale of pay of SI/ Exe. in the pay scale of Rs. 1400-40-1880 EB-50-2300 with cumulative effect. After giving the petitioner an opportunity of hearing, respondent No. 4 enhanced

the penalty already imposed on the petitioner from reduction of pay by three stages for a period of one year with cumulative effect to reduction of pay to the lowest (minimum) time scale of pay of SI/Exe. In the pay scale of Rs. 1400-40-1800-EB-50-2300 with cumulative effect for a period of three years with a further direction that the petitioner will earn his increment of pay during the period of reduction and that on expiry of the said period the reduction will not have effect on postponing his future increment of pay. It is this order that the petitioner seeks to assail in this writ petition,

3. On behalf of the respondents, no reply was filed to controvert the factual matrix of the allegations contained in the petition.

4. I have heard Shri R.S. Bains, on behalf of the petitioner and Shri Anil Rathee, on behalf of the respondents.

5. The solitary ground, on which the order passed by respondent No. 4 is sought to be challenged, is that under Rule 49 of the Rules, the enhancement in the punishment could be ordered by the revising authority within a period of one year from the date of the order imposing any punishment. The contention, I am afraid, cannot be accepted. Rule 49 of the Rules reads as under: -

"49. Revision: (1) Any authority superior to the authority making the order may, suo motu, if it considers necessary, revise an order, original or appellate, passed by such lower authority which come to his notice within a period of one year from the date of the order.

(2) The revising authority may remit, vary or enhance the punishment imposed, or may order a fresh enquiry or the taking of further evidence in the case it may consider necessary.

(3) The provision of rule 47 relating to appeals shall apply so far as may be such orders in revision."

6. This provision vests power in the authority superior to the authority, which passed the punishment order to suo motu revise any order original or appellate and while doing so remit, vary or enhance the punishment imposed or order a fresh inquiry or taking of further evidence as it may deem necessary. The only limitation which is placed on the exercise of the powers, is indicated in the words "passed by such lower authority, which comes to his notice within a period of one year from the date of the order". It is on the basis of interpretation of these words that the petitioners' counsel seeks to assert that the order of revisional authority should be passed within one year of the date of the order, which is being sought to be revised. Such interpretation cannot be read into the Rule. A perusal of Sub-rule (1) of Rule 49 of the Rules makes it clear that the order sought to be revised should come to the notice of the revisional authority within one year of its having been passed. It does not prescribe the date, within which the said authority has got to give its decision, which would naturally have to be taken after issuance of a show cause notice to the delinquent official. The

interpretation to the contrary, which the petitioner seeks to place on the provisions of Rule 49 of the Rules, would enable the delinquent officials like the petitioner to render nugatory the same by merely prolonging the finalisation of the proceedings. Such could not be the intention of the Rule Makers and the argument consequently has to be rejected.

7. In the present case the order by which the Commandant initially imposed the punishment was passed on 15.11.1990 and the show cause notice was issued on 14.11.1991. Once the proceedings, calling upon the petitioner to show cause as to why the punishment imposed should not be enhanced, had been initiated within the period of limitation, the fact that the final order has been passed after a period of one year would not render the same illegal.

8. No other point has been urged before me to assail the impugned order.

9. This petition fails and is dismissed with no order as to costs.